INTERNATIONAL COURT OF JUSTICE

Yearbook
2007-2008

No. 62

I.C.J. - THE HAGUE - 2008

YEARBOOK

2007-2008

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In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The present volume – sixty-second of the series – covers the period from 1 August 2007 to 31 July 2008.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Philippe COUVREUR,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. BASIC TEXTS

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the Practice Directions supplementing them, as well as the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 6*, pages 59-87.

The above-mentioned Article indicates that the Statute is based upon that of the Permanent Court of International Justice. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

> 2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 110-115, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 115-116, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the Permanent Court, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114;

I.C.J. Yearbook 1970-1971, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1946, 1972 and 1978 Rules of Court. The publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 6* (pp. 91-159).

On 5 December 2000 the Court adopted amendments to two Articles of its 1978 Rules: Article 79, relating to preliminary objections, and Article 80, relating to counter-claims. The amendments aimed at countering the proliferation of, and shortening, incidental proceedings, at clarifying the rules in force and at adapting them to affect more closely the practice developed by the Court. They came into force on 1 February 2001. The Rules of Court as adopted on 14 April 1978 have continued to apply to all cases submitted to the Court prior to 1 February 2001, and all phases of those cases. On 14 April 2005, the Court adopted a new procedure for the promulgation of amendments to its Rules. It has amended the Preamble to the latter in order to reflect this procedure.

Under the new promulgation procedure for amendments to the Rules, whenever the Court adopts an amendment to an Article of its Rules, the text will be posted on the Court's website, with an indication of its date of entry into force and a note of any temporal reservation relating to its applicability (e.g., whether application of the amended Article is limited to cases instituted after the date of entry into force of the amendment concerned). Previously, each amendment to the Court's Rules had been indicated in the Preamble. That practice is now discontinued. In the integral updated text of the Rules, Articles amended since the Rules' entry into force, on 1 July 1978, will henceforth be indicated by an asterisk and footnote.

The integral updated text of the Rules of Court will continue to be published from time to time, as appropriate, in a printed version.

Also on 14 April 2005, the Court amended Article 52 of its Rules. Paragraph 3 of this Article, which concerns the procedure to be followed where the Registrar arranges for the printing of a pleading, has been deleted and the footnote to the Article has been amended. Paragraph 4 of Article 52 has been renumbered and is now paragraph 3.

On 29 September 2005, the Court adopted amendments to Article 43 of its Rules (Subsection 1. Institution of Proceedings) regarding the notifications to be sent by the Court to those not directly involved in a case who are parties to a convention whose construction may be in question in the proceedings.

Two new paragraphs have been added to the Article, in order to cover the case of international organizations parties to such conventions and to establish an appropriate procedural framework for this purpose. Until now, the Court has sent notifications in these circumstances only to States parties to such conventions.

In October 2001 the Court decided to adopt Practice Directions for use by the States appearing before it. These Practice Directions involve no alteration to the Rules of Court, but are additional thereto. Practice Directions VII and VIII do not affect a choice or designation made by the parties prior to 7 February 2002, the date of the adoption by the Court of those Directions.

On 30 July 2004 the Court amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII. The amendment to Practice Direction V, which sets the four-month period for the presentation by a party of its observations and submissions on preliminary objections, clarifies that this period runs from the date of the filing of the preliminary objections. Practice Direction X requests the Agents of the parties to attend without delay any meeting called by the President of the Court whenever a decision on a procedural issue needs to be made in a case. Practice Direction XI states that in the oral pleadings on provisional measures parties should limit themselves to what is relevant to the criteria for the indication of such measures. Finally, Practice Direction XII establishes a procedure to be followed with regard to written statements and/or documents submitted by international non-governmental organizations in connection with advisory proceedings.

At the end of 2006, as part of the ongoing review of its procedures and working methods, the Court amended existing Practice Directions IX and XI and adopted new Practice Directions IX*bis* and IX*ter*.

As amended, paragraph 2 of Practice Direction IX is intended as a reminder that a party wishing to produce new documents after the closure of the written proceedings, including during the oral proceedings, must follow the procedure set out in Article 56, paragraphs 1 and 2, of the Rules of Court; the provisions of paragraphs 1 to 3 of Article 56 are supplemented by Practice Direction IX. Practice Direction IX*bis* provides the parties with guidance concerning their entitlement under Article 56, paragraph 4, of the Rules to refer during oral proceedings to the contents of a document which is "part of a publication readily available". Practice Direction IX*ter* gives further guidance to the parties as to the preparation of "folders of documents for the convenience of the judges during oral proceedings". In Practice Direction XI, the first sentence of the existing text was deleted.

The text of the Practice Directions is reproduced below:

"PRACTICE DIRECTIONS[1]

Practice Direction I

The Court wishes to discourage the practice of simultaneous deposit of pleadings in cases brought by special agreement.

The Court would expect future special agreements to contain provisions as to the number and order of pleadings, in accordance with Article 46, paragraph 1, of the Rules of Court. Such provisions shall be without prejudice to any issue in the case, including the issue of burden of proof.

If the special agreement contains no provisions on the number and order of pleadings, the Court will expect the parties to reach agreement to that effect, in accordance with Article 46, paragraph 2, of the Rules of Court.

Practice Direction II

Each of the parties is, in drawing up its written pleadings, to bear in mind the fact that these pleadings are intended not only to reply to the submissions and arguments of the other party, but also, and above all, to present clearly the submissions and arguments of the party which is filing the proceedings.

In the light of this, at the conclusion of the written pleadings of each party, there is to appear a short summary of its reasoning.

Practice Direction III

The Court has noticed an excessive tendency towards the proliferation and protraction of annexes to written pleadings. It strongly urges parties to append to their pleadings only strictly selected documents.

---

[1] Practice Directions are the result of the Court's ongoing review of its working methods. Any amendments to the Practice Directions, following their adoption by the Court, are posted on the Court's website and published in the Court's *Yearbook*, with a note of any temporal reservations relating to their applicability.

Practice Direction IV

Where one of the parties has a full or partial translation of its own pleadings or of those of the other party in the other official language of the Court, these translations should as a matter of course be passed to the Registry of the Court. The same applies to the annexes.

These translations will be examined by the Registry and communicated to the other party. The latter will also be informed of the manner in which they were prepared.

Practice Direction V

With the aim of accelerating proceedings on preliminary objections made by one party under Article 79, paragraph 1, of the Rules of Court, the time-limit for the presentation by the other party of a written statement of its observations and submissions under Article 79, paragraph 5, shall generally not exceed four months from the date of the filing of the preliminary objections.

Practice Direction VI

Article 60, paragraph 1. of the Rules provides:

> 'The oral statements made on behalf of each party shall be as succinct as possible within the limits of what is requisite for the adequate presentation of that party's contentions at the hearing. Accordingly, they shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain.'

The Court requires full compliance with these provisions and observation of the requisite degree of brevity. Where objections of lack of jurisdiction or of inadmissibility are being considered, oral proceedings are to be limited to statements on the objections.

Practice Direction VII[1]

The Court considers that it is not in the interest of the sound administration of justice that a person sit as judge *ad hoc* in one case who is also acting or has recently acted as agent, counsel or advocate in another case before the Court. Accordingly, parties, when choosing a judge *ad hoc* pursuant to Article 31 of the Statute and Article 35 of the Rules of Court, should refrain from nominating persons who are acting as agent, counsel or advocate in another case before the Court or have acted in that capacity in the three years preceding the date of the nomination. Furthermore, parties should likewise refrain from designating as agent, counsel or advocate in a case before the Court a person who sits as judge *ad hoc* in another case before the Court.

---

[1] See following page for footnote.

Practice Direction VIII[1]

The Court considers that it is not in the interest of the sound administration of justice that a person who until recently was a Member of the Court, judge *ad hoc*, Registrar, Deputy-Registrar or higher official of the Court (principal legal secretary, first secretary or secretary), appear as agent, counsel or advocate in a case before the Court. Accordingly, parties should refrain from designating as agent, counsel or advocate in a case before the Court a person who in the three years preceding the date of the designation was a Member of the Court, judge *ad hoc*, Registrar, Deputy-Registrar or higher official of the Court.

Practice Direction IX

1. The parties to proceedings before the Court should refrain from submitting new documents after the closure of the written proceedings.

2. A party nevertheless desiring to submit a new document after the closure of the written proceedings including during the oral proceedings, pursuant to Article 56, paragraphs 1 and 2 of the Rules, shall explain why it considers it necessary to include the document in the case file and shall indicate the reasons preventing the production of the document at an earlier stage.

3. In the absence of consent of the other party, the Court will authorize the production of the new document only in exceptional circumstances, if it considers it necessary and if the production of the document at this stage of the proceedings appears justified to the Court.

4. If a new document has been added to the case file under Article 56 of the Rules of Court, the other party, when commenting upon it, shall confine the introduction of any further documents to what is strictly necessary and relevant to its comments on what is contained in this new document.

Practice Direction IXbis

1. Any recourse to Article 56, paragraph 4, of the Rules of Court, is not to be made in such a manner as to undermine the general rule that all documents in support of a party's contentions shall be annexed to its written pleadings or produced in accordance with Article 56, paragraphs 1 and 2, of the Rules of Court.

---

[1] Practice Directions VII and VIII do not affect a choice or designation made by the parties prior to 7 February 2002, the date of the adoption by the Court of those Directions.

2. While the Court will determine, in the context of a particular case, whether a document referred to under Article 56, paragraph 4, of the Rules of Court, can be considered "part of a publication readily available", it wishes to make it clear to the parties that both of the following two criteria must be met whenever that provision is applied.

(i) First, the document should form "part of a publication", i.e. should be available in the public domain. The publication may be in any format (printed or electronic), form (physical or on-line, such as posted on the internet) or on any data medium (on paper, on digital or any other media).

(ii) Second, the requirement of a publication being "readily available" shall be assessed by reference to its accessibility to the Court as well as to the other party. Thus the publication or its relevant parts should be accessible in either of the official languages of the Court, and it should be possible to consult the publication within a reasonably short period of time. This means that a party wishing to make reference during the oral proceedings to a new document emanating from a publication which is not accessible in one of the official languages of the Court should produce a translation of that document into one of these languages certified as accurate.

3. In order to demonstrate that a document is part of a publication readily available in conformity with paragraph 2 above and to ensure the proper administration of the judicial process, a party when referring to the contents of a document under Article 56, paragraph 4, of the Rules of Court, should give the necessary reference for the rapid consultation of the document, unless the source of the publication is well known (e.g. United Nations documents, collections of international treaties, major monographs on international law, established reference works, etc.).

4. If during the oral proceedings a party objects to the reference by the other party to a document under Article 56, paragraph 4, of the Rules of Court, the matter shall be settled by the Court.

5. If during the oral proceedings a party refers to a document which is part of a publication readily available, the other party shall have an opportunity of commenting upon it.

Practice Direction IXter

The Court has noted the practice by the parties of preparing folders of documents for the convenience of the judges during the oral proceedings. The Court invites parties to exercise restraint in this regard and recalls that the documents included in a judge's folder should be produced in accordance with Article 43 of the Statute or Article 56, paragraphs 1 and 2, of the Rules of Court. No other documents may be included in the folder except for any document which is part of a publication readily available in conformity with Practice Direction IX*bis* and under the conditions specified therein. In addition, parties should indicate from which annex to the written pleadings or which document produced under Article 56, paragraphs 1 and 2, of the Rules, the documents included in a judge's folder originate.

Practice Direction X

Whenever a decision on a procedural issue needs to be made in a case and the President deems it necessary to call a meeting of the agents to ascertain the views of the parties in this regard pursuant to Article 31 of the Rules of Court, agents are expected to attend that meeting as early as possible.

Practice Direction XI

In the oral pleadings on requests for the indication of provisional measures parties should limit themselves to what is relevant to the criteria for the indication of provisional measures as stipulated in the Statute, Rules and jurisprudence of the Court. They should not enter into the merits of the case beyond what is strictly necessary for that purpose.

Practice Direction XII

1. Where an international non-governmental organization submits a written statement and/or document in an advisory opinion case on its own initiative, such statement and/or document is not to be considered as part of the case file.
2. Such statements and/or documents shall be treated as publications readily available and may accordingly be referred to by States and intergovernmental organizations presenting written and oral statements in the case in the same manner as publications in the public domain.
3. Written statements and/or documents submitted by international non-governmental organizations will be placed in a designated location in the Peace Palace. All States as well as intergovernmental organizations presenting written or oral statements under Article 66 of the Statute will be informed as to the location where statements and/or documents submitted by international non-governmental organizations may be consulted."

II. CHRONOLOGICAL SURVEY

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court *(Corfu Channel (United Kingdom* v. *Albania))* was submitted on 22 May 1947.

Between then and 31 July 2008 the Court has had to deal with a total of 138 cases, i.e., 114 contentious cases and 24 advisory cases, as listed below. In those cases it gave 98 judgments, of which 54 were on the merits, and 24 advisory opinions. Of the 447 orders made therein, 334 related solely to the fixing or extending of time-limits, while 412 orders related to contentious cases and 35 to advisory cases.

(a) Contentious[1]

Title	*Dates*
Corfu Channel (United Kingdom v. *Albania)*	1947-1949
Fisheries (United Kingdom v. *Norway)*	1949-1951
Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt)*	1949-1950
Asylum (Colombia/Peru)	1949-1950
Rights of Nationals of the United States of America in Morocco (France v. *United States of America)*	1950-1952
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. *Peru)*	1950
Haya de la Torre (Colombia/Peru)	1950-1951
Ambatielos (Greece v. *United Kingdom)*	1951-1953
Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*	1951-1952
Minquiers and Ecrehos (France/United Kingdom)	1951-1953
Nottebohm (Liechtenstein v. *Guatemala)*	1951-1955
Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*	1953-1954
Electricité de Beyrouth Company (France v. *Lebanon)*	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Hungary)*	1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *USSR)*	1954
Aerial Incident of 10 March 1953 (United States of America v. *Czechoslovakia)*	1955-1956
Antarctica (United Kingdom v. *Argentina)*	1955-1956
Antarctica (United Kingdom v. *Chile)*	1955-1956
Aerial Incident of 7 October 1952 (United States of America v. *USSR)*	1955-1956

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[1] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	*Dates*
Certain Norwegian Loans (France v. *Norway)*	1955-1957
Right of Passage over Indian Territory (Portugal v. *India)*	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*	1957-1958
Interhandel (Switzerland v. *United States of America)*	1957-1959
Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*	1957-1959
Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*	1957-1960
Aerial Incident of 27 July 1955 (United Kingdom v. *Bulgaria)*	1957-1959
Sovereignty over Certain Frontier Land (Belgium/Netherlands)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*	1958-1960
Aerial Incident of 4 September 1954 (United States of America v. *USSR)*	1958
Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*	1958-1961
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. *Lebanon)*	1959-1960
Aerial Incident of 7 November 1954 (United States of America v. *USSR)*	1959
Temple of Preah Vihear (Cambodia v. *Thailand)*	1959-1962
South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*	1960-1966
Northern Cameroons (Cameroon v. *United Kingdom)*	1961-1963
Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*	1962-1970
North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*	1971-1972
Fisheries Jurisdiction (United Kingdom v. *Iceland)*	1972-1974
Fisheries Jurisdiction (Federal Republic of Germany v. *Iceland)*	1972-1974
Nuclear Tests (Australia v. *France)*	1973-1974
Nuclear Tests (New Zealand v. *France)*	1973-1974
Trial of Pakistani Prisoners of War (Pakistan v. *India)*	1973
Aegean Sea Continental Shelf (Greece v. *Turkey)*	1976-1978
Continental Shelf (Tunisia/Libyan Arab Jamahiriya)	1978-1982

Title	*Dates*
United States Diplomatic and Consular Staff in Tehran (United States of America v. *Iran)*	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]	1981-1984
Continental Shelf (Libyan Arab Jamahiriya/Malta)	1982-1985
Frontier Dispute (Burkina Faso/Republic of Mali) [case referred to a Chamber]	1983-1986
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*	1984-1985
Border and Transborder Armed Actions (Nicaragua v. *Costa Rica)*	1986-1987
Border and Transborder Armed Actions (Nicaragua v. *Honduras)*	1986-1992
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)* [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*	1988-1993
Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*	1989-1996
Certain Phosphate Lands in Nauru (Nauru v. *Australia)*	1989-1993
Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*	1989-1991
Territorial Dispute (Libyan Arab Jamahiriya/Chad)	1990-1994
East Timor (Portugal v. *Australia)*	1991-1995
Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*	1991-1995
Passage through the Great Belt (Finland v. *Denmark)*	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*	1991-2001

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[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*	1992-2003
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*	1992-2003
Oil Platforms (Islamic Republic of Iran v. *United States of America)*	1992-2003
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Serbia and Montenegro)*	1993-2007
Gabčíkovo-Nagymaros Project (Hungary/Slovakia)	1993-
Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria: Equatorial Guinea intervening)*[1]	1994-2002
Fisheries Jurisdiction (Spain v. *Canada)*	1995-1998
Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand *v.* France) *Case*	1995
Kasikili/Sedudu Island (Botswana/Namibia)	1996-1999
Vienna Convention on Consular Relations (Paraguay v. *United States of America)*	1998
Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*	1998-1999
Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)	1998-2002
Ahmadou Sadio Diallo (Republic of Guinea v. *Democratic Republic of the Congo)*	1998-
LaGrand (Germany v. *United States of America)*	1999-2001
Legality of Use of Force (Serbia and Montenegro v. *Belgium)*	1999-2004
Legality of Use of Force (Serbia and Montenegro v. *Canada)*	1999-2004
Legality of Use of Force (Serbia and Montenegro v. *France)*	1999-2004
Legality of Use of Force (Serbia and Montenegro v. *Germany)*	1999-2004
Legality of Use of Force (Serbia and Montenegro v. *Italy)*	1999-2004

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[1] The intervention of Equatorial Guinea was admitted on 21 October 1999 (see *I.C.J. Yearbook 1999-2000*, p. 218).

Title	*Dates*
Certain Criminal Proceedings in France (Republic of the Congo v. *France)*	2003-
Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)	2003-2008
Maritime Delimitation in the Black Sea (Romania v. *Ukraine)*	2004-
Dispute regarding Navigational and Related Rights (Costa Rica v. *Nicaragua)*	2005-
Status vis-à-vis the Host State of a Diplomatic Envoy to the United Nations (Commonwealth of Dominica v. *Switzerland)*	2006
Pulp Mills on the River Uruguay (Argentina v. *Uruguay)*	2006-
Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. *France)*	2006-2008
Maritime Dispute (Peru v. *Chile)*	2008-
Aerial Herbicide Spraying (Ecuador v. *Colombia)*	2008-
Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*	2008-

(b) Advisory

Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956

Title	*Dates*
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989
Legality of the Use by a State of Nuclear Weapons in Armed Conflict	1993-1996
Legality of the Threat or Use of Nuclear Weapons	1994-1996
Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights	1998-1999
Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory	2003-2004

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).

On 31 July 2008 the composition of the Court was as follows:

Order of precedence		*Country*	*Date of expiry of term of office*
President	R. Higgins	United Kingdom	5 February 2009[2]
Vice-President	A. S. Al-Khasawneh	Jordan	5 February 2009[2]
Judges	R. Ranjeva	Madagascar	5 February 2009
	Shi Jiuyong	China	5 February 2012
	A. G. Koroma	Sierra Leone	5 February 2012
	G. Parra-Aranguren	Venezuela	5 February 2009
	T. Buergenthal	United States	5 February 2015
	H. Owada	Japan	5 February 2012
	B. Simma	Germany	5 February 2012
	P. Tomka	Slovakia	5 February 2012
	R. Abraham	France	5 February 2009
	K. Keith	New Zealand	5 February 2015
	B. Sepúlveda-Amor	Mexico	5 February 2015
	M. Bennouna	Morocco	5 February 2015
	L. Skotnikov	Russian Federation	5 February 2015

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

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[1] For the composition of chambers, see pp. 29-31, below.

[2] The terms of office of Judges Higgins and Al-Khasawneh as President and Vice-President respectively expire in 2009.

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, pp. 115-116, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. Former Presidents and Vice-Presidents and Former Members of the Court

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;

1949-1952, J. Basdevant and J. G. Guerrero[1];

1952-1955, Sir Arnold McNair and J. G. Guerrero[1];

1955-1958, G. H. Hackworth and A. H. Badawi[2];

1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;

1961-1964, B. Winiarski and R. J. Alfaro;

1964-1967, Sir Percy Spender and V. K. Wellington Koo;

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[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel (United Kingdom* v. *Albania); Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Rights of Nationals of the United States of America in Morocco (France* v. *United States of America); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Minquiers and Ecrehos (France/United Kingdom); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America).*

[2] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel (Switzerland* v. *United States of America), Interim Protection,* and *Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria).*

1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;
1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun[1];
1973-1976, M. Lachs and F. Ammoun[1];
1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
1979-1982, Sir Humphrey Waldock[2] and T. O. Elias[3];
1982-1985, T. O. Elias[4] and J. Sette-Camara;
1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[5];
1988-1991, J. M. Ruda and K. Mbaye;
1991-1994, Sir Robert Jennings[6] and S. Oda[6];
1994-1997, M. Bedjaoui and S. M. Schwebel;
1997-2000, S. M. Schwebel[7] and C. G. Weeramantry[7];

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[1] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council*, *Nuclear Tests (Australia* v. *France), Interim Protection*, and *Nuclear Tests (New Zealand* v. *France), Interim Protection*.

[2] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[3] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

[4] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[5] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

[6] While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*. Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*. (See *I.C.J. Yearbook 1991-1992*, p. 198.)

[7] While he was President of the Court, Judge Schwebel, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*, *LaGrand (Germany* v. *United States of America)* and *Legality of Use of Force (Yugoslavia* v. *United States of America)*. Although Article 32 was not applicable in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Legality of Use of Force (Serbia and Montenegro* v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) (Yugoslavia* v. *Spain) (Serbia and Montenegro* v. *United Kingdom)*, he did not think it appropriate to exercise the functions of the Presidency in those cases either. It was therefore the Vice-President, Judge Weeramantry, who, in accordance with Article 13, paragraph 1, of the Rules, exercised those functions.

2000-2003, G. Guillaume and Shi Jiuyong;
2003-2006, Shi Jiuyong and R. Ranjeva.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. Ago	Italy	1979-1995
* A. Aguilar-Mawdsley	Venezuela	1991-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
M. Bedjaoui	Algeria	1982-2001
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
N. Elaraby	Egypt	2001-2006
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
* J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
L. Ferrari Bravo	Italy	1995-1997
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* C.-A. Fleischhauer	Germany	1994-2003
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
* A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958

G. Guillaume	France	1987-2005
* G. H. Hackworth	United States	1946-1961
G. Herczegh	Hungary	1993-2003
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
* Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
* F. I. Kojevnikov	USSR	1953-1961
P. H. Kooijmans	Netherlands	1997-2006
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* K. Mbaye	Senegal	1982-1991
* Sir Arnold McNair	United Kingdom	1946-1955
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
* H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
* Ni Zhengyu	China	1985-1994
S. Oda	Japan	1976-2003
* C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
* R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
F. Rezek	Brazil	1997-2006
S. M. Schwebel	United States	1981-2000
* J. Sette-Camara	Brazil	1979-1988
M. Shahabuddeen	Guyana	1988-1997
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967

* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
V. S. Vereshchetin	Russian Federation	1995-2006
* Sir Humphrey Waldock	United Kingdom	1973-1981
C. G. Weeramantry	Sri Lanka	1991-2000
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. Judges *Ad Hoc*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3, Practice Direction VII). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. *Albania)*. Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia/Peru), *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia* v. *Peru)* and *Haya de la Torre (Colombia/Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. *United Kingdom)*. Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*. Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. *Guatemala)*. Mr. C. García Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*. Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. *India)*. Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*. Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. *United States of America)*. Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*. Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*. Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*. Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*[2]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*. Sir Louis Mbanefo (Nigeria)[3] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. *United Kingdom)*. Mr. P. Beb a Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*. Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

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[1] The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. García Bauer.

[2] Case removed from the List before the Court had occasion to sit.

[3] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*. Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. *France)*. Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. *France)*. Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. *India)*. Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[1].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. *Turkey)*. Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*. Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan

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[1] This case was removed from the List before the Court had occasion to hear argument on the question of its jurisdiction.

Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*. Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*. Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*. Mr. M. Aghahosseini was chosen by the Islamic Republic of Iran[1].

Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*. Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991, Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc*.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. *Australia)*. Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) was chosen by Portugal. Sir Ninian Stephen was chosen by Australia.

Passage through the Great Belt (Finland v. *Denmark)*. Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*. Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernárdez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case. Bahrain subsequently chose Mr. M. Shahabuddeen (Guyana). After the resignation of Mr. Shahabuddeen, Bahrain chose Mr. Yves L. Fortier (Canada) to sit as judge *ad hoc*.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*. Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya. Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*. The latter has been sitting as such in the phase of the proceedings concerning jurisdiction and admissibility.

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[1] Case removed from the List before the Court held occasion to hear argument on the preliminary objections raised by the United States.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*. Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. *United States of America)*. Mr. F. Rigaux (Belgium) was chosen by the Islamic Republic of Iran.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Serbia and Montenegro)*. Sir Elihu Lauterpacht (United Kingdom) was chosen by Bosnia and Herzegovina. Following his resignation, on 22 February 2002, Mr. Ahmed Mahiou (Algeria) was chosen by Bosnia and Herzegovina. Mr. M. Kreća was chosen by Serbia and Montenegro.

Gabčíkovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) was chosen by Slovakia.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria: Equatorial Guinea intervening)*. Mr. K. Mbaye (Senegal) was chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Fisheries Jurisdiction (Spain v. *Canada)*. Mr. S. Torres Bernárdez was chosen by Spain and Mr. M. Lalonde by Canada.

Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand *v.* France) *Case*. Sir Geoffrey Palmer was chosen by New Zealand.

Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*. Prince B. A. Ajibola was chosen by Nigeria and Mr. K. Mbaye (Senegal) by Cameroon.

Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). Mr. M. Shahabuddeen (Guyana) was chosen by Indonesia. Following the resignation of Mr. Shahabuddeen, Mr. Thomas Franck (United States of America) was chosen by Indonesia. Mr. C. G. Weeramantry (Sri Lanka) was chosen by Malaysia.

Ahmadou Sadio Diallo (Republic of Guinea v. *Democratic Republic of the Congo)*. Mr. Mohammed Bedjaoui (Algeria) was chosen by the Republic of Guinea and Mr. Auguste Mampuya Kanunk'A-Tshiabo by the Democratic Republic of the Congo. Following the resignation of Mr. Bedjaoui, on 10 September 2002, Mr. Ahmed Mahiou (Algeria) was chosen by the Republic of Guinea.

Legality of Use of Force (Serbia and Montenegro v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) (Yugoslavia* v. *Spain) (Serbia and Montenegro* v. *United Kingdom) (Yugoslavia* v. *United States of America).* In all ten cases Serbia and Montenegro [Yugoslavia] chose Mr. M. Kreća; in the case of *Serbia and Montenegro* v. *Belgium*, Mr. P. Duinslaeger was chosen by Belgium; in the case of *Serbia and Montenegro*[1] v. *Canada*, Mr. M. Lalonde was chosen by Canada; in the case of *Serbia and Montenegro* v. *Italy*, Mr. G. Gaja was chosen by Italy and in the case of *Yugoslavia* v. *Spain*, Mr. S. Torres Bernárdez was chosen by Spain. These have been sitting as such during the examination of Serbia and Montenegro's requests for the indication of provisional measures. In March 2000 Portugal indicated its intention to appoint a judge *ad hoc*. With regard to the phase of the procedure concerning the preliminary objections, the Court, taking into account the presence upon the Bench of judges of British, Dutch and French nationality, decided that the judges *ad hoc* chosen by the respondent States should not sit during that phase. The Court observed that this decision did not in any way prejudice the question whether, if the Court should reject the preliminary objections of the respondents, judges *ad hoc* might sit in subsequent stages of the cases.

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. *Burundi) (Democratic Republic of the Congo* v. *Uganda) (Democratic Republic of the Congo* v. *Rwanda).* In all three cases Mr. Joe Verhoeven (Belgium) was chosen by the Democratic Republic of the Congo; in the case of *Democratic Republic of the Congo* v. *Burundi*, Mr. J. J. A. Salmon (Belgium) was chosen by Burundi; in the case of *Democratic Republic of the Congo* v. *Uganda*, Mr. James L. Kateka (Tanzania) was chosen by Uganda; and, in the case of *Democratic Republic of the Congo* v. *Rwanda*, Mr. C. J. R. Dugard (South Africa) was chosen by Rwanda.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. *Serbia).* Mr. B. Vukas was chosen by Croatia and Mr. M. Kreća by Serbia.

Aerial Incident of 10 August 1999 (Pakistan v. *India).* Mr. S. S. U. Pirzada was chosen by Pakistan and Mr. B. P. J. Reddy by India.

Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. *Belgium).* Mr. Sayeman Bula-Bula was chosen by the Democratic

Republic of the Congo and Mrs. Christine Van den Wyngaert by Belgium.

Certain Property (Liechtenstein v. *Germany).* Mr. Ian Brownlie (United Kingdom) was chosen by Liechtenstein. Following his resignation, on 25 April 2002, Sir Franklin Berman (United Kingdom) was chosen by Liechtenstein. Mr. Carl-August Fleischhauer was chosen by Germany, Judge Simma being disqualified from sitting.

Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. *Honduras).* Mr. Giorgio Gaja (Italy) was chosen by Nicaragua and Mr. Julio González Campos (Spain) by Honduras. Following the resignation of Mr. González Campos, Honduras chose Santiago Torres Bernárdez to sit as judge *ad hoc.*

Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia), Preliminary Objections *(Yugoslavia* v. *Bosnia and Herzegovina).* Mr. Vojin Dimitrijević was chosen by Yugoslavia. Mr. Sead Hodžić was chosen by Bosnia and Herzegovina. Following the resignation of Mr. Hodžić, on 9 April 2002, Bosnia and Herzegovina chose Mr. Ahmed Mahiou (Algeria).

Territorial and Maritime Dispute (Nicaragua v. *Colombia).* Mr. Yves L. Fortier (Canada) was chosen by Colombia and Mr. Mohammed Bedjaoui (Algeria) by Nicaragua. Following the resignation of Mr. Bedjaoui on 2 May 2006, Nicaragua chose Mr. Giorgio Gaja (Italy).

Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. *Rwanda).* Mr. Jean-Pierre Mavungu Mvumbi-di-Ngoma was chosen by the Democratic Republic of the Congo and Mr. John Dugard (South Africa) by Rwanda.

Frontier Dispute (Benin/Niger). Mr. Mohamed Bennouna (Morocco) was chosen by Benin and Mr. Mohammed Bedjaoui (Algeria) by Niger.

Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras).* Mr. Felipe H. Paolillo (Uruguay) was chosen by El Salvador and Mr. Santiago Torres Bernárdez (Spain) by Honduras.

Avena and Other Mexican Nationals (Mexico v. *United States of America).* Mr. Bernardo Sepúlveda-Amor was chosen by Mexico.

Certain Criminal Proceedings in France (Republic of the Congo v. *France).* Mr. Jean-Yves De Cara (France) was chosen by the Republic of the Congo. Judge Abraham having recused himself under Article 24 of the Statute of the Court, Mr. Gilbert Guillaume was chosen by France.

Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore). Mr. Christopher J. Dugard (South Africa) was chosen by Malaysia and Mr. P. Sreenivasa Rao (India) by Singapore.

Maritime Delimitation in the Black Sea (Romania v. *Ukraine).* Mr. Jean-Pierre Cot (France) was chosen by Romania and Mr. Bernard H. Oxman (United States) by Ukraine.

Dispute regarding Navigational and Related Rights (Costa Rica v. *Nicaragua).* Mr. Antônio Augusto Cançado Trindade (Brazil) was chosen by Costa Rica and Mr. Gilbert Guillaume (France) by Nicaragua.

Pulp Mills on the River Uruguay (Argentina v. *Uruguay).* Mr. Raúl Emilio Vinuesa was chosen by Argentina and Mr. Santiago Torres Bernárdez (Spain) by Uruguay.

Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. *France).* Mr. Abdulqawi Ahmed Yusuf (Somalia) was chosen by Djibouti. Judge Abraham having recused himself under Article 24 of the Statute of the Court, Mr. Gilbert Guillaume was chosen by France.

Maritime Dispute (Peru v. *Chile).* Mr. Gilbert Guillaume (France) was chosen by Peru.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Higgins; Vice-President Al-Khasawneh; Judges Parra-Aranguren, Buergenthal and Skotnikov, members; Judges Koroma and Abraham, substitute members.

2. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In 1993, the Court established a Chamber for Environmental Matters, which was periodically reconstituted until 2006. In the Chamber's 13 years of existence, however, no State ever requested that a case be dealt with by it. The Court consequently decided in 2006 not to hold elections to re-elect a Bench for the said Chamber.

3. *Chambers Formed under Article 26, Paragraph 2, of the Statute*

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with six cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago *(President)*, Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui *(President)*, Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)*: constituted on 2 March 1987 with the following composition – Judges Nagendra Singh *(President)*, Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh, the Court, on 20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990] *intervening)*: constituted on 8 May 1987 with the following composition – Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara *(President)*, Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

Frontier Dispute (Benin/Niger): constituted on 27 November 2002 with the following composition – Judges Guillaume *(President)*, Ranjeva, Kooijmans; Judges *ad hoc* Bedjaoui, Bennouna. Following an election held on 16 February 2005 to fill the vacancy left by the resignation of

Judge Guillaume, the composition of that Chamber was as follows: Judges Ranjeva *(President)*, Kooijmans, Abraham; Judges *ad hoc* Bedjaoui, Bennouna.

Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)*: constituted on 27 November 2002 with the following composition – Judges Guillaume *(President)*, Rezek, Buergenthal; Judges *ad hoc* Torres Bernárdez, Paolillo.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Philippe Couvreur (see Chap. V, p. 202, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 6*, pp. 205-211). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*I.C.J. Acts and Documents No. 6*, pp. 215-217).

By resolution 90 (1) of 11 December 1946 (*ibid.*, pp. 211-215), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 2007 to 31 July 2008 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 2008

President Rosalyn HIGGINS

(Member of the Court since 12 July 1995; re-elected as from 6 February 2000; President since 6 February 2006)

Born in London, United Kingdom, on 2 June 1937.

Married to the Rt. Hon. the Lord Higgins, KBE, DL.

Dame Commander of the British Empire (1995).

Fellow of the British Academy; Fellow of the American Academy of Arts and Sciences.

B.A. (Cantab.) 1st Class (1959); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961); LL.B. (Cantab.) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab.) (1962); Honorary Fellow of London School of Economics and of Girton College, Cambridge.

Rockefeller Foundation Fellowship (1961); Vols. I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; British Academy Award (1977-1978); Honorary Doctorate of the University of Paris XI (1980), University of Dundee (1992), University of Durham and the London School of Economics (1995), University of Cambridge, University of Kent, University of Essex, University of Sussex, University of Greenwich and London City University (1996), University of Birmingham, University of Leicester, and University of Glasgow (1997), University of Nottingham (1999), University of Oxford (2002), University of Reading (2005). Received the 1995 Certificate of Merit of the American Society of International Law for *Problems and Process: International Law and How We Use It*. Wolfgang-Friedman Medal for services to International Law, Colombia University (1985); Harold Weil Medal, New York University (1995); *Chevalier d'Ordre des Palmes Académiques* (1988); Honorary Life Membership Award, American Society of International Law (1992); Yale Law School Medal of Merit (1997) and the Manley O. Hudson Medal (1998).

United Kingdom Intern, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960);

Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Barrister, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *East Timor (Portugal* v. *Australia); Territorial Dispute (Libyan Arab Jamahiriya/Chad); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom); Gabčikovo-Nagymaros Project (Hungary/Slovakia)*.

Member, Arbitral Tribunal: Arbitration between Eritrea and Yemen: Territorial Sovereignty (1998); Maritime Delimitation (1999); President, AMCO Asia/Indonesia, resubmitted case, Award on Jurisdiction (1988); *ibid.*, Award on Merits (1992); President, Iron Rhine Arbitration (Belgium *v.* Netherlands) (2003-2005); President, Interpretation of the Award in the Iron Rhine (2005); President, Capital Power Mauritius I and Energy Enterprises (Mauritius) Company *v.* Republic of India (2004-2005).

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman (since 1992), Public International Law Advisory Board, British Institute for International and Comparative Law (1992-2005); Hon. life Vice-President of the American Society of International Law (1993).

Board of Editors of the *American Journal of International Law* (1975-1985), and ex officio (since 2003); of the *Journal of Energy and Natural Resources Law*; and of the *British Year Book of International Law*.

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom Foreign Policy through the United Nations*, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol IV, *Europe*, 1981; *Law in Movement – Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994. Also author of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

Vice-President Awn Shawkat AL-KHASAWNEH

(Member of the Court since 6 February 2000; Vice-President since 6 February 2006)

Born in Amman, Jordan, on 22 February 1950.

Primary and secondary education at the Islamic Educational College of Amman. University education at Cambridge University (Queens' College), history and law, postgraduate studies in international law. M.A. LL.M. (Cantab.), Honorary Fellow of Queens' College.

Joined the Jordanian diplomatic service in 1975. Second Secretary, then First Secretary at the Permanent Mission of Jordan to the United Nations in New York (1976-1980). Ministry of Foreign Affairs with special responsibility for international organizations and international law (1980-1985). Head of the Legal Department at the Ministry of Foreign Affairs (1985-1990). Seconded to the Royal Court (1990). Ambassador (1992). Adviser to the King and Adviser of the State on International Law with the rank of Cabinet Minister (1995). Chief of the Royal Hashemite Court (1996-1998).

Member of the Jordanian Royal Commission on Legislative and Administrative Reform (1994-1996). Chairman of the Jordanian National Group on the Implementation of International Humanitarian Law (1998-2006).

Representative of Jordan at 19 sessions of the General Assembly of the United Nations (the Sixth (Legal) Committee) (since 1976). Jordan's alternate representative on the Security Council (1981-1982). Member of most Jordanian delegations to meetings of the Arab League, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference held in the years 1980-1988. Member of, and Legal Adviser to, the Jordanian delegation to the peace negotiations in the Middle East (1991-1994).

Representative of Jordan at the following conferences and committees in the field of the codification and progressive development of international law: *Ad Hoc* Committee on the Drafting of an International Convention against the Taking of Hostages (1977-1980); United Nations Conference on Succession of States in Respect of Treaties, Second Session (1978); United Nations Conference on Succession of States in Respect of State Property, Archives and Debts (1982); Chairman of the Drafting Committee at the United Nations Conference on Treaties between States and International Organizations or between International Organizations

(1986). Rome Conference on the drafting of a Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988).

Member of the Arab International Law Commission (1982-1989).

Member of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities (1984-1993). Chairman of the Sub-Commission (1993).

Special Rapporteur of the Commission on Human Rights on the human rights dimensions of forcible population transfer.

Chairman of Commission IV, Unesco General Conference (1993).

Member of the International Law Commission (1986-1999).

Member of the Permanent Court of Arbitration (since 1999).

Arbitrator in the Government of Sudan/The Sudan People's Liberation Movement/Army (Abyei Arbitration) (since 2008).

Member of the International Law Association, Chairman of the Committee on Islamic Law and International Law (since 2003).

Member of the Board of Editors, *Palestine Yearbook of International Law*.

Member of the Council of the Centre of Islamic and Middle Eastern Law at the School of Oriental and African Studies, University of London.

Lectured and participated widely in academic seminars at various universities, including Oxford, Cambridge, London, Geneva and universities in Jordan.

Publications: Three reports on the human rights dimensions of forcible population transfers, to the Sub-commission on Prevention of Discrimination and Protection of Minorities (1993-1997); "General Principles and Methods for Executing a New Convention", in *Environmental Protection and the Law of War*, London, New York, 1992; "The International Law Commission and Middle East Waters", in *Water in the Middle East: Legal, Political and Commercial Implications*, London, New York, 1995.

Honours: Istiqlal Order, First Class (1993); Kawkab Order, First Class (1996); Nahda Order, First Class (1996) (Jordan). Légion d'honneur, Grand Officier (1997) (France).

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991; re-elected as from 6 February 2000; member (2002-2005) and President (2005) of the Chamber formed to deal with the case concerning the *Frontier Dispute (Benin/Niger)*; Vice-President of the Court from 2003 to 2006)

Born in Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Doctor *honoris causa* of the Universities of Limoges and Strasbourg. Laureate of the University of Madagascar, of the National Association of Doctors of Law and of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Dean of the Faculty of Law, Economics, Management and Social Sciences, University of Madagascar (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas), the Institute of Advanced International Studies, La Réunion and Burundi, and the Free University of Brussels. Director of the French-speaking research seminar at the Hague Academy of International Law (1987); gave a course at the Hague Academy of International Law in 1997. Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Seabed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)* before the Court. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973) and in the case of SEDITEX INTERNATIONAL GmbH Hamburg/Republic of Madagascar.

Co-opted Member and Arbitrator of the Court of Arbitration for Sport.

Member and Vice-President of the Malagasy Academy of Sciences, Literature and Arts (1974); President of the ethics and political science section (1976-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988).

Member of the Board of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law. Member of the Scientific Council of the Agence universitaire de la Francophonie (AUPELF-UREF). Associate Member of the Institute of International Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Member of the Papal Council for Justice and Peace. Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commander of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. VI Honours, Madagascar.

Author of numerous books, essays, articles and of addresses at several conferences.

Judge SHI Jiuyong

(Member of the Court since 6 February 1994; re-elected as from
6 February 2003; Vice-President of the Court from 2000 to 2003;
President from 2003 to 2006)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing (1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of International Law, Foreign Affairs College, Beijing (1984-1993). Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988).

Before 2005, Adviser, then Honorary President (since 2005), Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing. Member, American Society of International Law. Member of the Consultative Council of *The Global Community: Yearbook of International Law and Jurisprudence*. President (since 2005) Curatorium of the Xiamen Academy of International Law. Co-chair (since 2002), Board of Honorary Editors, *Chinese Journal of International Law*.

Honorary Professor of International Law (since 2002), Foreign Affairs College, Beijing. Honorary President (since 2007), College of International Law, University of Diplomacy, Beijing. Honorary Professor (since 2001), China Eastern University of Politics and Law, Shanghai.

Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993). Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference.

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the Thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the Thirty-sixth, Thirty-seventh and Thirty-eighth Sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations between the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative of the International Law Commission to the Forty-fifth session of the United Nations General Assembly (1990). Expert from China, Senior Legal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 September 1991 at Nairobi. Representative of the International Law Commission to the Thirtieth meeting of the Asian-African Legal Consultative Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (1994-1997).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September/October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France (May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Judge Abdul G. Koroma

(Member of the Court since 6 February 1994; re-elected as from 6 February 2003)

Born in Freetown, Sierra Leone.

LL.M. (Honours), Kiev State University; Master of Philosophy (International Law), King's College, University of London; Hon. LL.D., University of Sierra Leone; Barrister-at-Law, Honorary Bencher, Honourable Society of Lincoln's Inn, London; Honorary Professor, Gujarat National Law University, Gujarat, India.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accreditation to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992); also accredited to Republic of Korea (Seoul) and High Commissioner to Barbados, Jamaica and Trinidad and Tobago (1988).

As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; served as Chairman of the United Nations Special Committee on the granting of independence to colonial countries and peoples (Committee of 24); headed various United Nations missions on the observance of the exercise of the right of self-determination in various non-self-governing territories.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Played an active role in and contributed to the elaboration of various contemporary legal instruments. Member of the International Law Commission (January 1982-1994), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Relations between States and International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the articles on most-favoured-nation clauses; the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes, and has written and lectured on these subjects. Served as expert consultant to the International Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law. Has delivered lectures on these topics in many countries, including Cameroon, Canada, China, Ethiopia, Germany, Greece, India, Italy, Japan, Republic of Korea, Malta, Norway, Peru, Sweden, the United Republic of Tanzania and the United States of America.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law and of the Planning Council of the International Ocean Institute (Halifax and Malta); Member and Vice-President of the African Association of International Law and Comparative Law; President of the African Society of International and Comparative Law; President, Henry Dunant Centre for Humanitarian Dialogue (Geneva) (1999-2006); Member of the International Institute of Humanitarian Law, San Remo; Member of the Institute of International Law; Member of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Office (Geneva); Member of the Advisory Board of the *Manchester*

Journal of International Economic Law; Member of the Scientific Advisory Board of the Cologne Commentary on Space Law, Institute of Air and Space Law, University of Cologne.

Awarded the Order of Commander of Rokel by the Government of Sierra Leone for outstanding professional service (1991), the International Institute of Humanitarian Law Prize for the Promotion, Dissemination and Teaching of International Humanitarian Law (2005) and the Order of Grand Officer of the Republic of Sierra Leone (the highest national award) in recognition of his service to the nation in the field of international law and international justice as a judge at the International Court of Justice (2007).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Among articles published: "Humanitarian Intervention and Contemporary International Law", *Swiss Review of International and European Law*, No. 4 (1995); "The Peaceful Settlement of International Disputes", *Netherlands International Law Review*, Vol. XLIII, 1996/7; "50th Anniversary of the Universal Declaration of Human Rights: Human Rights and International Humanitarian Law", *International Review of the Red Cross*, 1998; "The Influence of the Universal Declaration of Human Rights in Africa – Fifty Years after Its Adoption – A Legal Perspective", *Africa Legal Aid Quarterly*, 1998; "International Justice in Relation to the International Court of Justice", *Thesaurus Acroasium*, Vol. XXVI, Thessaloniki; "Implementation of the Law of the Sea Convention through Its Institutions: An Overview", in D. Vidas and W. Østreng (eds.), *Order for the Oceans at the Turn of the Century*; "The Humanitarian Consequences of Small Arms Proliferation", Paper delivered under the auspices of the Henry Dunant Centre for Humanitarian Dialogue; "The Future of the Common Heritage of Mankind", *1982 Convention on the Law of the Sea*, published by the Law of the Sea Institute, University of Hawaii, Honolulu; "Provisional Measures in Disputes between African States before the International Court of Justice", in *The International Legal System in Quest of Equity and Universality. Liber Amicorum Georges Abi-Saab*, ed. by Laurence Boisson de Chazournes and Vera Gowlland-Debbas, 2001; "Social Justice and the Role of an International Judge", Paper delivered at the Colloquium on Social Justice and International Law in Honour of Professor Georges Abi-Saab, 2001; Book Review on *Human Rights in Africa Series*, ed. Professor Christof Heyns, *Leiden Journal of International Law*, 2001; "Africa's Place in the International Justice System", Paper delivered at the 643rd Wilton Park Conference: Justice in Africa, 2001; "Refugees: A Continuing Challenge", Paper delivered at the 25th Round Table on Current Problems of International Humanitarian Law, International Institute of Humanitarian Law, San Remo, 2001; "The Protection of Civilian Populations in Non-International Armed Conflicts", Paper delivered at the Third Meeting of Experts, International Institute of Humanitarian Law, Stockholm, 2001; "Rules of the Court and Practice Directions", Max Planck Encyclopedia of Public International Law, 2005.

Judge Gonzalo Parra-Aranguren

(Member of the Court since 28 February 1996; re-elected as from 6 February 2000)

Born in Caracas, Venezuela, on 5 December 1928.

Degree in juridical and political sciences *(summa cum laude)* at the Central University of Venezuela (1950); postgraduate course in comparative law and jurisprudence (LL.M.) at the Inter-American Law Institute, New York University (1951-1952); Doctor of Law *("doktor iuris") (cum laude)* at the Ludwig-Maximileans University, Munich (1955).

Professor at the Central University of Venezuela, Caracas, teaching private international law (1956-1996); has taught that same course at Andrés Bello Catholic University in Caracas (1957-1996).

Judge in the Second Court of First Instance (commercial matters), Federal District and State of Miranda, Caracas (1958-1971); first associate judge (1988-1992) in the Chamber of Cassation (civil, commercial and labour matters) of the Supreme Court of Justice; alternate judge of the same Chamber (1992-1996). Has acted as arbitrator, both in Venezuela and abroad, in the latter case regarding international commercial matters of a private nature; on several occasions has testified in foreign courts as an expert on Venezuelan law.

Member of the Commission of Inquiry appointed in 1985 by the Governing Body of the International Labour Office to consider the implementation by the Federal Republic of Germany of the ILO Discrimination (Employment and Occupation) Convention (1958, No. 111); the report was submitted in 1986, but he did not endorse its recommendations.

Member of the Permanent Court of Arbitration (since 1985).

Member of the legislative committees that drafted the section on Venezuelan nationality in connection with the Constitution that was approved in 1961; the draft law on private international law (1963) and its subsequent revision in 1965 that was essentially reproduced in the Venezuelan Private International Law Act 1998; and the revised draft sections of the Code of Commerce dealing with credit instruments and bankruptcy respectively (1963-1965).

Member of the Legal Advisory Committee of the Ministry of Foreign Affairs (1984-1996) and of the Legal Advisory Council of the National Congress (1990-1996).

Member of the Institut de droit international (elected in 1979).

Member of the Academy of Political and Social Sciences of Caracas (since 1966) and its President (1993-1995). Corresponding Member of the Uruguayan International Law Association (1978); Corresponding Member of the Argentine International Law Association (1981); Corresponding member of the National Academy of Law and Social Sciences of Córdoba, Argentine Republic (1982); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation of Granada, Spain (1994); Corresponding member of the Mexican Academy of Jurisprudence and Legislation corresponding to that of Spain (1994); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation, Madrid (1994); Member of the "Deutsche Gesellschaft für Völkerrecht" (1998).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1982-1993); elected again in 1996 for one year. Honorary Member of the same Council (1993).

Former Member of the editorial board of the *Revista del Colegio de Abogados del Distrito Federal,* Caracas, and of the editorial board of the *Revista de la Facultad de Derecho de la Universidad Católica Andrés Bello*, Caracas (from its establishment until 1996). Correspondent for the *Netherlands International Law Review* (since 1987).

Taught the General Course on Private International Law at the Hague Academy of International Law (1988), and has given lectures in various countries: in Curaçao, at the commemoration of the centenary of the Introduction of the Civil Code and the Installation of the High Court of Justice (1969); at the course on international law (Rio de Janeiro, 1978, 1979, 1982, 1988, 1992 and 1997), organized by the Inter-American Juridical Committee and the Brazilian Foundation "Gétulio Vargas"; at the Hague Academy of International Law, on "Recent Developments of Conflict of Laws Conventions in Latin America" (1979); at the "Journeys of International Law" (Salamanca, November 1992); at the seminar on "Principles for the International Commercial Contracts", prepared by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, December 1993); at the working meeting on the "Reviews and Books for the Unification of the Latin-American Juridical System" (Rome, December 1993); at the Eighth World Conference of the International Society of Family Law (Cardiff, June 1994); at the Congress on Children on the Move, organized by the Dutch committee of the International Year of the Family in collaboration with the Hague Conference on Private International Law (The Hague, October 1994); at the seminar on "Adoption, an Act of Love", organized by the Colombian Institute for Family Welfare (Bogotá, June 1995); at the Symposium "Il nuovo Diritto Internazionale Privato Italiano", University of Padua (1996); at the Symposium "Globalization of Child Law: The Role of the Hague Convention" (The Hague, September 1997); and at the "Civil Law Congress", organized by the Bar Association of Puerto Rico (1998).

Co-Chairman of the Committee on Private International Law, during the Sixteenth Session of the Inter-American Lawyers Federation (Caracas, 1969). Reporter at the "First Latin-American Journeys of International Law", at the Andrés Bello Catholic University (Caracas, 1979); at the Twelfth Congress of the Hispano-Luso Institute of International Law (Merida, Venezuela, 1980); at the International Seminar on Adoption (Caracas, 1996); and at the Inter-American Congress "Towards a New Regulation of the International Contracts" (Valencia, Venezuela, 1996).

Representative for Venezuela at the International Association of Legal Science and the German Society for Comparative Law (Treveris, Federal

Republic of Germany, 1961); and at the third meeting of the Joint Venezuelan-Spanish Commission (Madrid, 1974).

Representative for Venezuela at the first Inter-American Specialized Conference on Private International Law (CIDIP-I, Panama, 1975), being Vice-Chairman of the Second Committee; at the second such Conference (CIDIP-II, Montevideo, 1979), being Chairman of the Second Committee; at the third and fourth such Conferences (held, respectively, CIDIP-III in La Paz, Bolivia, 1984, and CIDIP-IV in Montevideo, 1989), being Chairman of the Second Committee; and at the fifth such Conference (CIDIP-V, Mexico City, 1994), being Chairman of the First Committee.

Member of the Committees of Experts that met in Washington, D.C., in 1980 in preparation for the Third Inter-American Specialized Conference on Private International Law (CIDIP-III); in Tucson, Arizona, 1993, in preparation for the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V); and in Washington, D.C. (1995, 1996) to prepare the Inter-American Convention against Corruption.

Representative of Venezuela at the Hague Conference on Private International Law: thirteenth session (1976-1977); fourteenth session (1980); fifteenth session (1984); special session (1985); sixteenth session (1988); and the seventeenth session (1993); member of the special working group and Special Commission (April and October 1994, respectively) to study the application of the Convention of 1993 to minors who are refugees; and of the Special Commission (second meeting, June 1995) on the protection of minors and incompetent adults and of the Special Commission on maintenance obligations (November 1995). Elected one of the five Vice-Chairmen at the fifteenth and sixteenth sessions.

Rapporteur of the Special Commission of the seventeenth session of the Hague Conference on Private International Law and, in pursuance of these functions, prepared the preliminary report (1992) and the explanatory report on the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 29 May 1993.

Author of the following books: *Die Regel "Locus Regit Actum" und die Formen der Testamente*, 1955; *La Nacionalidad Venezolana Originaria*, Vols. I and II, 1964; *La Constitución de 1830 y los Venezolanos por Naturalización*, 1969; *Codificación del Derecho Internacional Privado en América*, Vol. I, 1982, Vol. II, 1998; *La Nacionalidad Venezolana: I. Antecedentes Históricos*, 1983; *La Influencia del Matrimonio sobre la Nacionalidad de la Mujer en la Legislación Venezolana*, 1983; *La Nacionalidad Venezolana: II. Problemas Actuales*, 1983; *Monografías Selectas de Derecho Internacional Privado*, 1984; *Ensayos de Derecho Procesal Civil Internacional*, 1986: *Curso General de Derecho Internacional Privado (Problemas Selectos)*, 1991; *Curso General de Derecho Internacional Privado. Problemas Selectos y Otros Estudios*, 1992; *Curso General de Derecho Internacional Privado. Problemas selectos y Otros Estudios*, Tercera Edición Revisada, 1998; *Estudios de Derecho Procesal Civil Internacional*, 1998; *Escritos Diversos de Derecho Internacional Privado*, 1998; *Estudios de Derecho Mercantil Internacional*, 1998; *El Régimen de los Bienes en el Matrimonio en el Derecho Internacional Privado Venezolano*, 2007.

Has further published numerous articles on the law of nationality, private international law and international civil procedural law in Venezuelan and foreign journals.

Judge Thomas Buergenthal

(Member of the Court since 2 March 2000; re-elected as from 6 February 2006)

Born in Lubochna, Slovakia (United States national), on 11 May 1934.

B.A., Bethany College, West Virginia (1957); Juris Doctor, New York University School of Law (Root Tilden Scholar) (1960); Master of Laws, Harvard Law School (1961); Doctor of Juridical Science, Harvard Law School (1968). Honorary Doctorates in Law: Bethany College (1981), University of Heidelberg (1986), Free University of Brussels (1994), State University of New York (Buffalo) (2000), American University Washington College of Law (2002), University of Minnesota (2003), George Washington University Law School (2004), University of Göttingen (2007) and New York University (2008).

Member of the Bars of the State of New York, District of Columbia, and United States Supreme Court.

Professor of Law, State University of New York (Buffalo) School of Law (1962-1975); Fulbright and Jaworski Professor of International Law, University of Texas School of Law (1975-1980); Dean and Professor of International Law, American University Washington College of Law (1980-1985); I. T. Cohen Professor of Human Rights, Emory University School of Law, and Director, Human Rights Program of the Carter Center (1985-1989); Lobingier Professor of Comparative Law and Jurisprudence and Presiding Director, International Rule of Law Center, The George Washington University Law School (1989-2000).

Judge and President, Inter-American Court of Human Rights (1979-1991); Judge and President, Administrative Tribunal, Inter-American Development Bank (1989-1994); Member, United Nations Truth Commission for El Salvador (1992-1993); Member, United Nations Human Rights Committee (1995-1999); Member, Panels of Conciliators and of Arbitrators, International Centre for Settlement of Investment Disputes, World Bank (since 1997); Arbitrator (1997-2000) and Vice-Chairman (1999-2000), Claims Resolution Tribunal for Dormant Accounts in Switzerland; Member, Ethics Commission, International Olympic Committee (since 2005).

Chairman, United States Government Delegation to Unesco Specialized Conference on International Education (1974); Chairman, Human Rights Committee, United States National Commission for Unesco (1976-1979); Chief United States Representative, Unesco Executive Board Working Group on Human Rights Procedures (1977/1978); Member, Advisory Board, President's Commission on the Holocaust (1978-1979); Vice-President, Unesco Congress on the Teaching of Human Rights, and

Chairman, United States Delegation to the Congress (Vienna, 1978); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Copenhagen (1990); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Expert Meeting on Democratic Institutions, Oslo (1991); Member, United States Holocaust Memorial Council (1996-2000) and Chairman of its Committee on Conscience (1997-2000).

Rapporteur, Study Panel on International Human Rights Law and Its Implementation, American Society of International Law (1970-1975); Member, Board of Directors, International Institute of Human Rights (René Cassin Foundation), Strasbourg, France (1970-1989); Member, Executive Council (1977-1980; 1986-1989), Vice-President (1980-1982), Honorary Vice-President (1994-1999), Honorary President (since 2001), American Society of International Law; Associate Reporter (1978-1980), Member, Advisory Committee (1980-1986), American Law Institute, Restatement (Third) on the Foreign Relations Law of the United States; Chairman, Human Rights Committee, International Law and Practice Section, American Bar Association (1981-1982; 1991-1992); Member, Standing Committee on World Order under Law, American Bar Association (1997-1999); Member, Administrative Council, Blaustein Institute of Human Rights (1996-2000); Member, Kuratorium, Max Planck Institute for Public International Law, Heidelberg, Germany (1984-2002); Founder and President, Inter-American Institute of Human Rights (1980-1992), Honorary President (since 1992); Vice-Chairman, Academic Council, Institute of Transnational Arbitration (1998-2003), Honorary Chairman (since 2004). Member, Executive Committee, American Bar Association Centre for Human Rights (since 2003).

Member of the American Bar Association, American Society of International Law, American Law Institute, Council on Foreign Relations, German Society of International Law. *Associé*, Institut de droit international.

Pro-Humanitas Prize, West-Ost Kulturwerk (Federal Republic of Germany) (1978); Unesco Human Rights Prize (First Honourable Mention) (1978); Book Award (first prize) of the Inter-American Bar Association for *Protecting Human Rights in the Americas: Selected Problems* (1982); Distinguished Service in Legal Education Award (1987); Alumni Achievement Award (2005), New York University Law School Association; Wolfgang G. Friedmann Memorial Award for Outstanding Achievement in International Law, Columbia University Law School (1989); Harry Leroy Jones Award for Outstanding Achievements in Foreign and International Law, Washington Foreign Law Society (1990); Human Rights Prize, Jacob Blaustein Institute for the Advancement of Human Rights (1997); Goler T. Butcher Medal for Excellence in Human Rights, American Society of International Law (1997); Manley O. Hudson Medal, American Society of International Law (2002); Louis B. Sohn Award, International Law Section of the American Bar Association (2006);

International Humanitarian Award for Advancing Global Justice, Case Western Reserve University Law School (2006).

Member, Editorial Boards: *American Journal of Comparative Law* (1966-1977); *American Journal of International Law; Human Rights Law Journal; Europäische Grundrechte Zeitschrift; Revue universelle des droits de l'homme*; *Encyclopedia of Public International Law* (R. Bernhardt, ed.); *Anuario Mexicano de Derecho Internacional* and *International Affairs* (2008).

Author of numerous books, essays and articles. Books include, *inter alia: Law-Making in the International Civil Aviation Organization*, 1969; *International Protection of Human Rights* (with L. B. Sohn), 1973; *Public International Law* (with S. Murphy), 4th ed., 2007; *International Human Rights* (with D. Shelton and D. Stewart), 3rd ed., 2002; *Protecting Human Rights in the Americas* (with D. Shelton), 4th ed., 1995; *Grundzüge des Völkerrechts* (with Kokott and Doehring), 3rd ed., 2003; *A Lucky Child*, 2007.

Judge Hisashi OWADA

(Member of the Court since 6 February 2003)

Born in Niigata, Japan, on 18 September 1932.

B.A., University of Tokyo (1955). LL.B., Cambridge University (1956). D. Phil. *(honoris causa)*, Keiwa University, Japan (2000). LL.D. *(honoris causa)*, Banaras Hindu University, India (2001) and Waseda University, Japan (2004).

Honorary Professor, Leiden University. Professorial Academic Adviser, Hiroshima University. Professor, New York University Global Law School. *Associé*, Institut de droit international (1995). *Membre*, Institut de droit international (2001). Member, Permanent Court of Arbitration. Honorary Member, American Society of International Law. President, Asian Society of International Law. Member Emeritus, Japanese Society of International Law. Member, Executive Council of the Japan Branch, International Law Association.

Entered the Foreign Service of Japan. Private Secretary to the Minister for Foreign Affairs of Japan (1971-1972). Private Secretary to the Prime Minister of Japan (1976-1978). Director General, Treaties Bureau (Principal Legal Adviser), Ministry of Foreign Affairs (1984-1987). Ambassador, Permanent Representative of Japan to the OECD (1988-1989). Deputy Minister, Ministry of Foreign Affairs (1989-1991). Vice-Minister for Foreign Affairs (1991-1993). Ambassador, Permanent Representative of Japan to the United Nations (1994-1998). Special Adviser to the Minister for Foreign Affairs of Japan (1999-2003). President of the Japan Institute of International Affairs (1999-2003). Senior Adviser to the President of the World Bank (1999-2000). Adjunct Professor of International Law, University of Tokyo (1963-1988). Visiting Professor of International Law, Harvard Law School (1979-1981, 1987, 1989, 2000-2002). Inge Rennert Distinguished Visiting Professor of International Law, New York University Law School (1994-1998). Adjunct Professor of International Law, Columbia Law School (1994-1998). Professor, the Hague Academy of International Law (1999). Professor of International Law, Waseda University Graduate School (2000-2003). Visiting Fellow Commoner of Trinity College, Cambridge University (2002).

Member of the Japanese Delegation to the Second United Nations Conference on the Law of the Sea (1960). Alternate Representative of Japan to the United Nations Conference on the Law of Treaties (1968-1969). Head of the Japanese Delegation to the Committee on Peaceful Uses of the Sea Bed and Ocean Floor (1968-1972). Head of the Japanese Delegation to the Legal Sub-Committee of the United Nations Committee on Peaceful Uses of Outer Space (1968-1970). Head of the Japanese Delegation to the United Nations Special Committee on Friendly Relations (1968-1970); Chairman of the Drafting Committee of the Special Committee (1970). Rapporteur of the Sixth Committee of the United Nations General Assembly, Twenty-fifth Session (1970). Member of the Japanese Delegation to the United Nations General Assembly, Twenty-third to Twenty-fifth Sessions (Sixth Committee) (1968-1970). Alternate Representative of Japan to the United Nations General Assembly, Twenty-seventh to Twenty-eighth Sessions (1972-1973). Alternate Representative of Japan to the Third United Nations Conference on the Law of the Sea (1973-1982). Adviser to the Japanese Delegation to the United Nations General Assembly, Thirty-ninth to Forty-first (1984-1986) and Forty-fourth to Forty-fifth Sessions (1989-1990). Representative of Japan to the United Nations General Assembly, Forty-ninth to Fifty-third Sessions (1994-1998). Representative of Japan to the World Summit for Social Development in Copenhagen (1994). Representative of Japan to the Fourth World Conference on Women in Beijing (1995). Representative of Japan to the Assembly of Heads of State and Government, Organization of African Unity, 31st to 33rd Sessions (1995-1997). Representative of Japan to the General Assembly of the Organization of American States (1996). Representative of Japan to the United Nations Security Council (1997-1998), President of the Security Council (1997-1998). Representative of Japan to the Ministerial Meeting of the Non-Aligned Movement (1997-1998). Representative of Japan to the Summit Meeting of the Non-Aligned Movement (1998). Head of the Japanese Delegation to the United Nations Diplomatic Conference on the Establishment of an International Criminal Court (1998).

Honours: Humanitarian Studentship in International Law, Cambridge University (1958-1959). Al-Istiqlal Order, First Degree, Hashemite Kingdom of Jordan (1990). Officier, Légion d'Honneur, France (1992). Grand Cross of the Order of Merit, Federal Republic of Germany (1994).

Author of numerous publications on international law and international organizations.

Judge Bruno SIMMA

(Member of the Court since 6 February 2003)

Born in Quierschied (Saar), Germany, on 29 March 1941.

Doctorate of Law, University of Innsbruck, Austria (1966). Doctorate *honoris causa* of the University of Macerata, Italy (2006).

Practice at the Bar in Innsbruck (1967). Assistant at the Faculty of Law, University of Innsbruck (1967-1972). Universitätsdozent *(venia legendi)* for International Law and International Relations, Innsbruck (1971). Professor of International Law and European Community Law, Director of the Institute of International Law, University of Munich (1973-2003). Lecturer for International Law at the Training Centre for Junior Diplomats, German Federal Foreign Ministry (1981-1989). Visiting Professor at the University of Siena, Italy (1984-1985). Visiting Professor (1986 and 1995), Professor of Law (1987-1992), Member of the Affiliate Overseas Faculty (since 1997) of the University of Michigan Law School, Ann Arbor, United States (on leave during tenure at the International Court of Justice). Lecturer (1995), Director of Studies (1976 and 1982) at the Hague Academy of International Law. Dean of the Munich Faculty of Law (1995-1997).

Member of the United Nations Committee on Economic, Social and Cultural Rights (1987-1996). Member of the United Nations International Law Commission (1996-2003). Member of the Advisory Boards on International Law and on United Nations Issues of the German Federal Foreign Ministry (until 2002).

Was actively engaged in the following cases before the International Court of Justice: *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening)* as Counsel for Cameroon (1994-2002); *LaGrand (Germany* v. *United States of America)* as Co-agent and counsel for Germany (1999-2001); and *Certain Property (Liechtenstein* v. *Germany)* as counsel for Germany (2001-2002).

Arbitrator in the Iron Rhine Arbitration between Belgium and the Netherlands (2003-2005).

Member of the Court of Arbitration for Sport.

Expert at the Council of Europe (Directorate of Legal Affairs) (1972). Expert for the Human Dimension Mechanism of the OSCE and for Conflict Prevention Activities of the Secretary-General of the United Nations. Consultant in cases before the European Commission and the European Court of Human Rights. Consultant on international law to various Governments.

Co-founder and first President of the European Society of International Law (2004-2007). Associate Member of the Institut de droit international. Member of the International Council of Environmental Law. Member of the Council (since 1987), Vice-President (1989-1993) of the German Society of International Law. Member of various other professional associations.

Member of the Advisory Boards of the Heidelberg Max Planck Institute for Comparative Public Law and International Law and the Walther Schücking Institute of International Law at the University of Kiel. Member of the Advisory Council of the British Institute of International and Comparative Law.

Co-founder and co-editor of the *European Journal of International Law*. Member of the advisory boards of various international legal journals and yearbooks.

Certificate of Merit awarded by the American Society of International Law (1996). Distinguished Global Law School Fellow of New York University Law School (2005).

Visiting lectures at around 60 universities and other academic institutions worldwide.

Principal publications: *Das Reziprozitätselement in der Entstehung des Völkergewohnheitsrechts*, 1970; *Das Reziprozitätselement im Zustandekommen völkerrechtlicher Verträge. Gedanken zu einem Bauprinzip der internationalen Rechtsbeziehungen*, 1972; *Universelles Völkerrecht. Theorie und Praxis* (together with Alfred Verdross), 1st ed., 1976, 2nd ed., 1981, 3rd ed., 1984; *Territoriale Souveränität und Gebietshoheit. Zur völkerrechtlichen Lage der Oder-Neiße-Gebiete* (together with Alfred Verdross and Rudolf Geiger), 1980; *Europarecht in Fällen* (together with Waldemar Hummer and Christoph Vedder), 1st ed., 1991, 2nd ed., 1994, 3rd ed., 1999; *Kompetenzen und Grundrechte: Beschränkungen der Tabakwerbung aus der Sicht des Europarechts* (together with Joseph H. Weiler and Markus Zöckler), 1999; *Restitution und Entschädigung im Völkerrecht: Die Verpflichtungen der Republik Österreich nach 1945 im Lichte ihrer außenpolitischen Praxis* (together with Hans-Peter Folz), 2004; *International Protection of the Environment. Treaties and Related Documents* (together with Bernd Rüster and Michael Bock), 30 vols., 1975-1983, continued in loose-leaf format 1990 ff.; *Zwischen Intervention und Zusammenarbeit. Interdisziplinäre Arbeitsergebnisse zu Grundfragen der KSZE* (together with Edda Blenk-Knocke), 1979; *Jus humanitatis. Festschrift zum 90. Geburtstag von Alfred Verdross* (together with Herbert Miehsler, Erhard Mock and Ilmar Tammelo), 1980; *United Nations Codification of State Responsibility* (together with Marina Spinedi), 1987; *Charta der Vereinten Nationen: Kommentar*, 1991; *The Charter of the United Nations: A Commentary*, 1st ed., 1995, 2nd ed., 2002; *Neues europäisches Völkerrecht nach dem Ende des Ost-West-Konfliktes?* (together with Hanspeter Neuhold), 1996; "Reflections on Article 60 of the Vienna Convention on the Law of Treaties and Its Background in General International Law", *Österreichische Zeitschrift für öffentliches Recht*, Vol. 20, 1970; "Völkerrechtswissenschaft und Lehre von den Internationalen Beziehungen. Erste Überlegungen zur Interdependenz zweier Disziplinen", *Österreichische Zeitschrift für öffentliches Recht*, Vol. 23, 1972; "Das Kernkraftwerk an der Grenze: Eine 'Ultra-Hazardous Activity' im Schnittpunkt von internationalem Nachbarrecht und Umweltschutz" (together with A. Randelzhofer), *Festschrift für Friedrich Berber zum 75.*

Geburtstag, 1973; "Der Grundvertrag und das Recht der völkerrechtlichen Verträge", *Archiv des öffentliches Rechts,* Vol. 100, 1975; "Methodik und Bedeutung des Arbeit der Vereinten Nationen für die Fortentwicklung des Völkerrechts", *Die Vereinten Nationen im Wandel,* 1975; "Zur bilateralen Durchsetzung vertraglich verankerter Menschenrechte. Aktivlegitimation und zulässige Mittel nach allgemeinem Völkerrecht", *Autorität und internationale Ordnung. Aufsätze zum Völkerrecht* (Christoph Schreuer, ed.), 1979; "Grenzüberschreitender Informationsfluß und domaine réservé der Staaten", *Berichte der Deutschen Gesellschaft für Völkerrecht,* Vol. 19, 1979; "Der Beitrag von Alfred Verdross zur Entwicklung der Völkerrechtswissenschaft" (in collaboration with Michael Bock, Jennifer Clayton and Joachim Krauß), *Jus humanitatis. Festschrift für Alfred Verdross zum 90. Geburtstag,* 1980; "Völkerrecht in der Krise?", *Österreichische Zeitschrift für Außenpolitik,* Vol. 20, 1980; "Zur völkerrechtlichen Bedeutung von Resolutionen der UN-Generalversammlung", *Fünftes deutsch-polnisches Juristen-Kolloquium, Vol. 2: Die Bedeutung der Resolutionen der Generalversammlung der Vereinten Nationen* (Rudolf Bernhardt, Jost Delbrück and Ingo von Münch, eds.), 1981; "Droit international coutumier et droit interne selon la Loi fondamentale", *Völkerrecht und Landesrecht. Deutsch-argentinisches Verfassungsrechtskolloquium in Buenos Aires* (Michael Bothe and R. E. Vinuesa, eds.), 1982; "Consent: Strains in the Treaty System", *The Structure and Process of International Law: Essays in Legal Philosophy, Doctrine and Theory* (R. St. J. Macdonald and D. M. Johnston, eds.), 1983; "Legal Aspects in Intra-(East-West) German Relations", *Maryland Journal of International Law and Trade,* Vol. 9, 1985; "Self-contained Regimes", *Netherlands Yearbook of International Law,* Vol. 16, 1985; "The Antarctic Treaty as a Treaty Creating an 'Objective Regime'", *Cornell International Law Journal,* Vol. 19, 1985-1986; "Grundfragen der Staatenverantwortlichkeit in der Arbeit der International Law Commission", *Archiv des Völkerrechts,* Vol. 24, 1986; "La immunidad de los Estados", *Derecho Comparado* (Buenos Aires), 1987; "The Court of Arbitration for Sport", *Völkerrecht. Recht der Internationalen Organisationen. Weltwirtschaftsrecht. Festschrift für Ignaz Seidl-Hohenveldern* (K.-H. Böckstiegel, H.-E. Folz, J. M. Mössner and K. Zemanek, eds.), 1988; "Grenzüberschreitende Auswirkungen von Kernkraftanlagen und Völkerrecht" (together with Günther Handl), *Österreichische Zeitschrift für Öffentliches Recht und Völkerrecht,* Vol. 39, 1988; "Bilateralism and Community Interest in the Law of State Responsibility", *International Law at a Time of Perplexity, Essays in Honour of Shabtai Rosenne* (Y. Dinstein and M. Tabory, eds.), 1989; "International Crimes: Injury and Countermeasures. Comments on Part 2 of the ILC Work on State Responsibility", *International Crimes of States* (J. H. H. Weiler, A. Cassese and M. Spinedi, eds.), 1989; "Wirtschaftliche, soziale und kulturelle Rechte im Völkerrecht. Der Internationale Pakt von 1966 und sein Kontrollverfahren" (together with Sabine Bennigsen), *Festschrift für Ernst Steindorff zum 70. Geburtstag am 13. März 1990,* 1990; "A Hard

Look at Soft Law", *Proceedings 82nd Annual Meeting of the American Society of International Law*, 1991; "The Implementation of the International Covenant on Economic, Social and Cultural Rights", *Die Durchsetzung wirtschaftlicher und sozialer Grundrechte* (Franz Matscher, ed.), 1991; "The Sources of Human Rights Law: Custom, Jus Cogens, General Principles" (together with Philip Alston), *The Australian Yearbook of International Law*, Vol. 12, 1992; "Does the UN Charter Provide an Adequate Legal Basis for Individual or Collective Responses to Violations of Obligations erga omnes?", *The Future of International Law Enforcement: New Scenarios – New Law?* (Jost Delbrück, ed.), 1993; "International Human Rights and General International Law: A Comparative Analysis", *Collected Courses of the Academy of European Law*, Vol. IV, Book 2, 1994; "Die Erzeugung ungeschriebenen Völkerrechts: Allgemeine Verunsicherung – klärende Beiträge Karl Zemaneks", *Völkerrecht zwischen normativem Anspruch und politischer Realität. Festschrift für Karl Zemanek* (K. Ginther, G. Hafner, W. Lang, N. Neuhold and L. Sucharipa-Behrmann, eds.), 1994; "Countermeasures and Dispute Settlement: A Plea for a Different Balance", *European Journal of International Law*, Vol. 5, 1994; "From Bilateralism to Community Interest in International Law", *Collected Courses*, the Hague Academy of International Law, Vol. 250, 1994-vi; "The Contribution of Alfred Verdross to the Theory of International Law", *European Journal of International Law*, Vol. 6, 1995; "Human Rights", *The United Nations at Age Fifty: A Legal Perspective* (Ch. Tomuschat, ed.), 1995; "The 'International Community': Facing the Challenge of Globalization" (together with Andreas Paulus), *European Journal of International Law*, Vol. 9, 1998; "The Impact of Nuremberg and Tokyo: Attempts at a Comparison", *Japan and International Law, Past, Present and Future* (N. Ando, ed.), 1999; "Human Rights Considerations in Development Cooperation Activities of the European Community" (together with Jo Aschenbrenner and Constanze Schulte), *The European Union and Human Rights* (Ph. Alston *et al.*, eds.), 1999; "The Responsibility of Individuals for Human Rights Abuses in Internal Conflicts: A Positivist View" (together with Andreas Paulus), *American Journal of International Law*, Vol. 93, 1999; "NATO, the UN and the Use of Force: Legal Aspects", *European Journal of International Law*, Vol. 10, 1999; "Le rôle relatif des différentes sources du droit international (dont les principes généraux de droit)" (together with Andreas Paulus), *Droit international pénal*, 2000; "Reciprocity", *Encyclopedia of Public International Law* (Rudolf Bernhardt, ed.), Vol. IV, 2000; "International Adjudication and U.S. Policy – Past, Present, Future", *Democracy and the Rule of Law* (N. Dorsen and P. Gilford, eds.), 2001; "Peaceful Settlement of Boundary Disputes under the Auspices of the Organization of African Unity and the United Nations: The Case of the Frontier Dispute between Eritrea and Ethiopia" (together with Daniel Khan), *Liber Amicorum Judge Shigeru Oda*, Vol. 2 (N. Ando, E. McWhinney and R. Wolfrum, eds.), 2002; Reports on the Work of the International Law Commission at its

49th to 54th sessions, *Nordic Journal of International Law*, 1997-2003; "Staatenverantwortlichkeit und Menschenrechte im ILC-Entwurf 2001", *Verhandeln für den Frieden – Negotiating for Peace: Liber Amicorum Tono Eitel* (Jochen Abr. Frowein, Klaus Scharioth, Ingo Winkelman and Rüdiger Wolfrum, eds.), 2003; "Article 37" (together with Daphne Richemond), *The Statute of the International Court of Justice: A Commentary* (A. Zimmermann, Ch. Tomuschat and K. Oellers-Frahm, eds.), 2006; "Eine endlose Geschichte? Artikel 36 der Wiener Konsularkonvention in Todesstrafenfällen vor dem IGH und amerikanischen Gerichten", *Völkerrecht als Wertordnung. Festschrift für Christian Tomuschat* (P.-M. Dupuy, B. Fassbender, M. N. Shaw and K.-P. Sommermann, eds.), 2006; "Of Planets and the Universe: Self-contained Regimes in International Law (together with Dirk Pulkowski), *European Journal of International Law*, Vol. 17, 2006; "From *LaGrand* to *Medellín* – A Rocky Road toward Implementation" (together with Carsten Hoppe), *Tulane Journal of International and Comparative Law*, Vol. 14 (2005-2006); "The *LaGrand* Case: A Story of Many Miscommunications" (together with Carsten Hoppe), *International Law Stories* (J. E. Noyes, L. Dickinson, M. W. Janis, eds.), 2007; "Human Rights and State Responsibility", *The Law of International Relations – Liber Amicorum Hanspeter Neuhold* (A. Reinisch and U. Kriebaum, eds.), 2007. "Der Einfluss der Menschenrechte auf das Völkerrecht: ein Entwurf", *International Law between Universalism and Fragmentation. Festschrift für Gerhard Hafner* (I. Buffard, J. Crawford, A. Pellet, S. Wittich, eds.), 2008.

Judge Peter TOMKA

(Member of the Court since 6 February 2003)

Born in Banská Bystrica, Slovakia, on 1 June 1956.

LL.M. *(summa cum laude)*, Faculty of Law, Charles University, Prague (1979). *Doctor juris* (international law), Charles University (1981). Ph.D. in International Law, Charles University (1985). Faculty of International Law and International Relations, Kiev, Ukraine (1982). Institut du droit de la paix et du développement, Nice, France (1984-1985). Institute of International Public Law and International Relations, Thessaloniki, Greece (1985). Hague Academy of International Law (1988).

Assistant Legal Adviser (1986-1990); Head of the Public International Law Division (1990-1991), Ministry of Foreign Affairs, Prague. Counsellor and Legal Adviser (1991-1992), Permanent Mission of Czechoslovakia to the United Nations. Ambassador, Deputy Permanent Representative (1993-1994), and Ambassador, Acting Permanent Representative of Slovakia to the United Nations (1994-1997). Legal Adviser and Director of the International Law Department (1997-1998); Director General for International Legal and Consular Affairs and Legal Adviser (1998-1999), Ministry of Foreign Affairs, Bratislava, Slovakia. Ambassador, Permanent Representative of Slovakia to the United Nations (1999-2003).

Chairman of the United Nations Committee on the Applications for Review of the Judgements of the Administrative Tribunal (1991). Vice-Chairman of the Sixth (Legal) Committee of the United Nations General Assembly (1992). Chairman of the Working Group on the United Nations Decade of International Law (1995). Chairman of the Meeting of the States Parties to the International Covenant on Civil and Political Rights (1996). Vice-President of the Sixth Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1996). Chairman of the Sixth (Legal) Committee of the Fifty-second Session of the United Nations General Assembly (1997). Vice-Chairman of the Preparatory Committee for the International Criminal Court (1998). President of the Ninth Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1999). Chairman of the *Ad Hoc* Committee on the International Convention against the Reproductive Cloning of Human Beings (2002). Member of the Ambassadorial Panel of Experts to advise the Division for Ocean Affairs and the Law of the Sea (2002).

Member (1999-2003), Second Vice-Chairman (2000), Chairman of the Drafting Committee (2001), United Nations International Law Commission.

Delegate of Czechoslovakia to the XXVth International Conference of the Red Cross, Geneva (1986).

Representative of Czechoslovakia to the Preparatory Commission for the International Sea Bed Authority and the International Tribunal for the Law of the Sea (1987-1992). Alternate Representative of Czechoslovakia in the United Nations General Assembly, Forty-sixth and Forty-seventh Sessions, and Adviser at the Forty-fifth Session (1990-1992). Representative of Czechoslovakia in the Sixth Committee (1990-1992). Head of the Delegation of Czechoslovakia to the Meeting of the States Parties to the Antarctic Treaty, Madrid (1991). Head of the Delegation of Czechoslovakia to the CSCE Meeting of Experts on the Peaceful Settlement of Disputes in Europe, Valletta, Malta (1991). Representative of Slovakia to the United Nations General Assembly, Forty-eighth to Fifty-seventh Sessions (1993-2002), and Deputy Head of delegation at the Forty-ninth to Fifty-first and Fifty-fourth to Fifty-seventh Sessions. Representative of Slovakia in the Sixth Committee (1993-2002). Representative of Slovakia to the Preparatory Commission for the International Sea Bed Authority and the International Tribunal for the Law of the Sea (1993-1994). Head of the Delegation of Slovakia to the Assembly of the International Sea Bed Authority (1994-1996). Alternate Head of the Delegation of Slovakia to the Diplomatic Conference on the Establishment of the International Criminal Court (1998).

Agent of Slovakia before the International Court of Justice in the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* (1993-2003).

Expert of Slovakia in the ICSID case No. ARB/97/4, *Československá obchodná banka (CSOB)* v. *The Slovak Republic* before the International Centre for Settlement of Investment Disputes (Jurisdiction) (1997-1999).

Member of the Permanent Court of Arbitration (since 1994). Arbitrator in the *Iron Rhine (Belgium/Netherlands)* case (2003-2005) and the *Request for Interpretation of the Award of the Arbitral Tribunal* (2005).

On the List of Arbitrators nominated under Annex VII to the United Nations Convention on the Law of the Sea (since 2004) and at the International Centre for Settlement of Investment Disputes (since 2005). Member or President of several *ad hoc* annulment committees.

Chairman of the Committee of Legal Advisers on Public International Law, Council of Europe (2001-2002); Vice-Chairman (1999-2000).

Legal Adviser of the Czechoslovak Delegation at the negotiations on the withdrawal of Soviet military forces from Czechoslovakia (1989-1990). Legal Adviser of the Czechoslovak Delegation at the negotiations concerning the dissolution of the Warsaw Pact (1991).

Lecturer (1980-1984), Senior Lecturer (1984-1991), Public International Law, Charles University, Prague. General Course on Public International Law, Institute of International Relations, Comenius University, Bratislava (1998-1999).

Member (1981-1992) and Secretary (1986-1991) of the Czechoslovak Society of International Law. Member (1988-2001) and Secretary (1988-1991) of the Czechoslovak Branch of the International Law Association (ILA). Member (since 1982) and Honorary President (since 2003) of the Slovak Society of International Law. Member of the American Society of International Law (since 2000). Member of the European Society of International Law (since 2004). Member of the International Arbitration Institute (since 2005). Member, Board of Editors of the journal *Právník (The Lawyer)*, published by the Czechoslovak Academy of Science (1990-1991).

Author of a doctoral thesis on the *Codification of International Law* (Charles University, Prague, 1984) and of a series of articles in Slovak and Czech on forms of codification of international law, the International Court of Justice, the peaceful resolution of international disputes in Europe, the establishment of the International Criminal Court, the Draft Code of Crimes against the Peace and Security of Mankind; co-author of a collection of *Documents for the Study of the Law of the European Communities* (1991). Publications in English and French: "The First Site Visit of the International Court of Justice in Fulfilment of Its Judicial Function", *American Journal of International Law*, Vol. 92, 1998 (co-author with S. Wordsworth); "Major Complexities Encountered in Contemporary International Law-Making", *Making Better International Law: The International Law Commission at 50*, 1998; "The Special Agreement", *Liber Amicorum Judge Shigeru Oda* (N. Ando, E. McWhinney and R. Wolfrum, eds.), Vol. I, 2002; "La Cour internationale de Justice en tant que l'Organe judiciaire principal des Nations Unies, Commentaire sur l'article 92 de la Charte", *La Charte des Nations Unies, Commentaire article par article* (J.-P. Cot and A. Pellet, eds.), 3rd ed., Vol. II, 2005; "Comment on the Unity and Diversity of International Law in the Settlement of International Disputes", *Unity and Diversity in International Law* (A. Zimmermann and R. Hofmann, eds.), 2006; "Are States Liable for the Acts of Their Instrumentalities?", *State Entities in International Arbitration* (E. Gaillard, ed.), 2008. *Elettronica Sicula* case *(United States of America* v. *Italy)*, *Fisheries Jurisdiction* cases *(United Kingdom* v. *Iceland)*, *Frontier Dispute* case (Burkina Faso/Republic of Mali), *Sovereignty over Certain Frontier Land* case (Belgium/Netherlands), *Max Planck Encyclopedia of Public International Law* (R. Wolfrum, ed.), Oxford University Press, online edition, 2008.

Judge Ronny ABRAHAM

(Member of the Court since 15 February 2005)

Born in Alexandria, Egypt, on 5 September 1951.

Diplôme d'études supérieures de droit public (Diploma in Advanced Studies in Public Law), University of Paris I (1974). Diploma of the Institut d'études politiques of Paris (1973). Alumnus of the Ecole nationale d'administration (1976-1978).

Professor of international law, Institut d'études politiques of Paris (until 1998). Associate Professor, University of Paris X-Nanterre (1997-2003). Associate Professor, University of Paris II, Panthéon-Assas (public international law, human rights) (2004-2005).

Judge sitting in administrative courts (1978-1985 and 1987-1988). Assistant Director of the Office of Legal Affairs of the Ministry of Foreign Affairs (1986-1987). *Maître des requêtes* in the *Conseil d'État* (1988-2000), *Conseiller d'État* (from 2000), *Commissaire du gouvernement* (advocate general) before the judicial organs of the *Conseil d'État* (1989-1998).

Director of Legal Affairs at the French Ministry of Foreign Affairs (1998-2005). From 1998 to 2005, as head of the Legal Affairs Directorate at the Ministry of Foreign Affairs, in charge of advising the Government on legal matters in the fields of general international public law, European Union law, international human rights law, the law of the sea and the Antarctic.

From 1998 to 2004, Agent for France in many cases before international and European courts, as follows: International Court of Justice: *Legality of Use of Force (Serbia and Montenegro* v. *France)* (request for the indication of provisional measures, 1999, and on preliminary objections, 2004); *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)* (request for the indication of provisional measures, 2003); *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (request for an Advisory Opinion) (written statement of the French Republic, 30 January 2004); European Court of Human

Rights; Court of Justice of the European Communities; International arbitral tribunals: Tribunal formed by France and the United Nations Educational, Scientific and Cultural Organization (Unesco) in the case concerning the tax regime applicable to pensions paid to retired Unesco officers residing in France, award issued on 14 January 2003; Tribunal formed by the Kingdom of the Netherlands and the French Republic in the case concerning the final settlement of accounts pursuant to the additional protocol to the Convention concerning the Protection of the Rhine against Chlorides Pollution, award issued on 12 March 2004.

Member and Chair of the Committee of Experts of the Council of Europe for the Improvement of Procedures for the Protection of Human Rights (member 1986-1998; Chairman 1987-1989). Chair of the Joint Consultative Committee of the Organization for Economic Co-operation and Development (1994-1998).

Member of the French delegation to the General Assembly of the United Nations (1998-2004). Head of the French delegation to the Sixth Committee of the General Assembly (1998-2004)

Head of the French delegation to the Assembly of States Parties to the Rome Statute of the International Criminal Court (2002, 2003, 2004). Head of the French delegation in the Working Group on Jurisdictional Immunities of States and their Property (2004). Head of the French delegation to the Central Commission for the Navigation of the Rhine (1998-2005), Chairman of the Commission (2002-2003).

Member of the Board of the Société française pour le droit international. Member of the European Group of Public Law. Member of the Board of Editors of the *Annuaire français de droit international.*

Publications: *Droit international, droit communautaire et droit français*, 1989; "Les magistrats des tribunaux administratifs et des cours administratives d'appel", *Revue française de droit administratif (RFDA)*, 1988, March-April, No. 2; "Compétence des juridictions internes pour interpréter un traité international", *Actualité juridique droit administratif*, September 1990; *Revue générale de droit international public*, 1990; "L'applicabilité directe de la Convention européenne des droits de l'homme devant la juridiction administrative", *Revue universelle des droits de l'homme*, 1991, September, Vols. 7-9; "Les incidences de la Convention européenne des droits de l'homme sur le droit constitutionnel et administratif des États parties", *Revue universelle des droits de l'homme*, 1992, Vols. 10-11; "Commentary on Articles 25 and 46 of the European Convention on Human Rights", in *La Convention européenne des droits de l'homme*, L. E. Pettiti, E. Decaux and P. H. Imbert, eds.; "La réforme du mécanisme de contrôle de la Convention européenne des droits de l'homme; le Protocole no 11 à la Convention", *Annuaire français de droit international*, 1994; "Les principes généraux de la protection juridictionnelle administrative en Europe: l'influence des jurisprudences européennes", *Revue européenne de droit public*, Vol. 9, No. 3, Autumn 1997; "La notion d'effet direct des traités internationaux devant le Conseil d'État", *Recueil*

Dalloz, 1998, jurisprudence; "Les normes du droit communautaire et du droit international devant le juge administratif français", presented at the Symposium of the Société française pour le droit international, held at Bordeaux, ed. Pedone, Paris, 2000; "Les procédures incidentes devant la Cour internationale de Justice", presented at a workshop of the School of Law of the University of Rennes I, ed. Pedone, Paris, 2001; "La France devant les juridictions européennes", *Pouvoirs*, 2001, No. 96; "Le rôle du jurisconsulte au Ministère des affaires étrangères", presented at the symposium of the Société française pour le droit international held at Geneva, ed. Pedone, Paris, 2004; "Le principe du contradictoire devant les juridictions internationales", presented at the symposium organized by the University of Paris I, ed. Pedone, 2004; "Droit des immunités et exigences du procès équitable", presented at a symposium organized by the University of Paris XII, ed. Pedone, Paris, 2004.

"La Cour internationale de Justice, juge constitutionnel?", in *La Charte des Nations Unies, Constitution mondiale?*, symposium organized by the University of Paris X, ed. Pedone, Paris, 2006; "L'application des traités internationaux et l'office du juge des référés administratifs", *Mélanges Labetoulle*, ed. Dalloz, 2007; "L'articulation du droit interne et du droit international", *La France et le droit international*, Cahin, Poirat, Szurek (dir.), ed. Pedone, Paris, 2007.

Numerous "conclusions" (opinions) in the Conseil d'État published in *Actualité juridique*, *Droit administratif*, *Revue française de droit administratif*, *Revue générale de droit international public* and *Revue critique de droit international privé*.

Judge Kenneth Keith

(Member of the Court since 6 February 2006)

Born in Auckland, New Zealand, on 19 November 1937.

Knight Commander of the Order of the British Empire for services to legal education and law reform. Order of New Zealand.

Studied law (1956-1965), University of Auckland, Victoria University of Wellington and Harvard Law School, qualifying for LL.B. and LL.M. degrees; Honorary LL.D. degrees, University of Auckland 2001 and Victoria University of Wellington 2004.

Barrister and Solicitor of the High Court of New Zealand (1961); Queen's Counsel (1994).

Faculty member, Victoria University of Wellington (1962-1964, 1966-1991); Dean (1977-1981); now Professor Emeritus; also Visiting Professor at Osgoode Hall Law School, Toronto (1981-1982).

Member of the Legal Division, New Zealand Department of External Affairs (1960-1962); Member of the Office of Legal Affairs (Codification Division) of the United Nations (1968-1970), primarily undertaking research for the International Law Commission and working with the

Sixth Committee of the General Assembly, including the Committee on Friendly Relations; student intern in that Division (1965); Member of the New Zealand Law Commission (1986-1996), President (1991-1996).

Judge of the New Zealand Court of Appeal (1996-2003), and of the newly established Supreme Court of New Zealand (2004-2005); at various times Judge of Appeal in Samoa, the Cook Islands and Niue; Judge of the Supreme Court of Fiji; Member of the Judicial Committee of the Privy Council, London.

Member of the New Zealand legal team in the *Nuclear Tests* cases before the International Court of Justice 1973, 1974 and 1995; leader of the New Zealand delegation to two of the sessions of the Diplomatic Conference which prepared the 1977 additional protocols to the Geneva Conventions; member of the New Zealand National Group of the Permanent Court of Arbitration (1985-2007); member of the panel of arbitrators of the International Centre for the Settlement of Investment Disputes (since 1994); President (2002-2006) and member (1991-2006) of the International Humanitarian Fact-Finding Commission under the first additional Protocol to the Geneva Conventions for the Protection of War Victims; member of the international arbitral tribunals in the *Rainbow Warrior* (*New Zealand* v. *France*) (1990) and *Southern Bluefin Tuna* (*Australia and New Zealand* v. *Japan*) (2000) cases; and Chair of NAFTA and ICSID tribunals.

Named lectures include Cook Memorial (New Zealand Bankers Association), Sir John Marshall Memorial (Wellington District Law Society), F. W. Guest Memorial (University of Otago), Brainerd Currie Memorial (Duke University), Harkness Henry (University of Waikato), Frank Stuart Dethbridge Memorial (Maritime Law Association of Australia and New Zealand) and Sir David Williams (University of Cambridge).

Member of the Board of Editors of the *Public Law Review* (Melbourne), *New Zealand Law Review* (Auckland), *Commonwealth Law Bulletin* (London), *Oxford University Commonwealth Law Journal* and *New Zealand Journal of Public and International Law* (Wellington).

President of the New Zealand Institute of International Affairs (2000-2007); Counsellor of Honour and International Humanitarian Law Consultant, New Zealand Red Cross; Member of the Public and Administrative Law Reform Committee (1972-1986), the Committee on Official Information (1978-1980), the Royal Commission on the Electoral System (1985-1986), the Legislation Advisory Committee (1986-1996); and member (since 2003) and *associé* (1997-2003) of the Institut de droit international.

Member, American Law Institute; Honorary Member, Society of Legal Scholars (England); Honorary Bencher of the Inner Temple; Fellow, Legal Research Foundation (New Zealand); Member, American Society of International Law; Member, British Institute of International and Comparative Law; Member, Australian and New Zealand Society of International Law; Member, International Institute of Strategic Studies and Member, International Law Association.

Publications on international law include: "New Zealand Treaty Practice: The Executive and the Legislature", *NZULR*, Vol. 1, 1964; "International Law and New Zealand Municipal Law", in J. F. Northey (ed.), *A. G. Davis Essays in Law*, 1965; "A New Zealand Perspective on Globalisation", in Alston and Chiam (eds.), *Treatymaking and Australia – Globalisation versus Sovereignty?*, 1995; "Application of International Human Rights Law in New Zealand", *Texas ILJ*, Vol. 32, 1997 (also published in Judicial Colloquium in Georgetown, Guyana, 1996 *Developing Human Rights Jurisprudence*, Vol. 7, 1998); "Roles of the Courts in New Zealand in Giving Effect to International Human Rights – With Some History": Seminar Commemorating the 50th Anniversary of the Universal Declaration of Human Rights, *VUWLR*, Vol. 29, 1999, and *NZACL*, *Yearbook*, Vol. 4, 1998; "The Impact of International Law on New Zealand Law", (Harkness Henry Lecture) *Waikato LR* , Vol. 6, 1998. *The Extent of the Advisory Jurisdiction of the International Court of Justice*, 1971; "The Nuclear Tests Cases after Ten Years", *VUWLR*, Vol. 14, 1983; "The Advisory Jurisdiction of the International Court of Justice: Some Comparative Reflections", *Aust YBIL*, Vol. 17, 1996; Permanent Court of Arbitration, The Hague, in C. Saunders and T. McCormick (eds.), *Sir Ninian Stephen: A Tribute*, 2007; "The ICJ – Some Reflections on My First Year", *NZJPIL*, Vol. 5, 2008; "The International Court of Justice – *Primus Inter Pares?*", International Organizations Law Review, Vol. 5, 2008.

"The Role of Law in the United Nations", *VUWLR*, Vol. 4, 1967; "The International Law Commission's Work and the Shaping of International Law", in *Proceedings of the United Nations Colloquium on Progressive Development and Codification of International Law*, 1998; "Piracy and Other Perils: Can the Law Cope?" *Journal of Maritime Law Association of Australia and New Zealand*, Vol. 16, 2002. "Sovereignty at the Beginning of the 21st Century: Fundamental or Outmoded?", *Camb LJ*, Vol. 63, 2004; "Protecting Human Rights in a Time of Terror: The Role of National and International Law", *Waikato LR*, Vol. 13, 2005; "The World Community and its Law", *NZULR*, Vol. 22, 2006.

"Succession to Bilateral Treaties by Seceding States", *AJIL*, Vol. 61, 1967; *Defence Perspectives*: Papers read at the 1972 Otago Foreign Policy School, 1972, editor and introduction; "Land and Sea Frontier Problems in South-East Asia", in Hedley Bull (ed.), *Asia and the Western Pacific: Towards a New International Order*, 1975; "Rights and Responsibilities: Protecting the Victims of Armed Conflict", *Duke LJ*, Vol. 48, 1999; "Freedom of Information and International Law", in Jack Beatson and Yvonne Cripps (eds.), *Freedom of Expression and Freedom of Information: Essays in Honour of Sir David Williams*, 2000.

Other publications concern constitutional law, administrative law, the review and reform of the law and legal education. They include *International Implications of Race Relations in New Zealand*, 1972; "Race

Relations and the Law in New Zealand", *Human Rights Journal*, Vol. 6, 1973; "The Impact of American Ideas on New Zealand's Educational Policy, Practice and Theory: The Case of Law", *VUWLR*, Vol. 18, 1988 (also in David Philips and Others (eds.). *The Impact of American Ideas on New Zealand's Educational Policy, Practice and Thinking*, 1989; "Lawyers and the Rule of Law: Lawyers in the Law Reform Process", in *10th Commonwealth Law Conference, Nicosia, Cyprus: Conference Papers*, 1993; "Governance, Sovereignty and Globalisation: 5th Biennial Conference on the New Zealand Council of Trade Unions" *VUWLR*, Vol. 28, 1998, p. 477; "Introductory Essay: Public Law in New Zealand", *NZJPIL*, Vol. 1, 2003; *Administrative Law Developments in New Zealand as Seen Through Immigration Law*, G. Huscroft and M. Taggart (eds.), "Inside and Outside Canadian Administrative Law: Essays in honour of David Mullan", 2006; New Zealand's Contribution – Is it Brilliant or Odd? In Sir Geoffrey Palmer (ed.), Reflections on the New Zealand Law Commission, 2007.

Bernardo SEPÚLVEDA-AMOR

(Member of the Court since 6 February 2006)

Born in Mexico City on 14 December 1941.

Law degree, National University of Mexico (1964) *(magna cum laude)*; LL.M. (Cantab.) (1966); Diploma in International Law (Cantab.) (1965); Honorary Fellow of Queens' College, University of Cambridge (1990); Honorary Doctorate from the University of San Diego (1982) and from the University of Leningrad (now St. Petersburg) (1987); Rockefeller Foundation Fellowship (1964-1966).

Professor of International Law and International Organizations at El Colegio de Mexico since 1967 where he was also Associate Research Fellow (1993-2006). Lecturer in a number of academic institutions: Faculty of Political and Social Sciences (National University of Mexico); Institute of Legal Research (National University of Mexico); Centro de Investigaciónes y Docencia Economíca (CIDE); Instituto Tecnológico Autónomo de Mexico (ITAM); Instituto Matías Romero de Estudos Diplomáticos (Mexican Foreign Office); Hague Academy of International Law (Regional Programme, Mexico City, 2002); Institute of European Integration Studies (El Colegio de Mexico, 1994-1996).

Deputy Director for Legal Affairs, Secretary of the Presidency (1968-1970); Director of the Foreign Investment Program (1971-1975) and then Director General for International Affairs (1976-1980) at the Secretary of the Treasury. Principal Adviser on International Affairs to the Secretary of the Budget (1981).

Ambassador of Mexico to the United States of America (1982). Secretary of Foreign Relations of Mexico (1982-1988). Ambassador of Mexico to the United Kingdom and, concurrently, to Ireland (1989-1993).

President of the Mexican delegations to the General Assembly of the United Nations and to the General Assembly of the Organization of American States, as well as of other international regional and global organizations (1982-1988).

Co-Chairman of the Mexico-United States Bi-national Commission, together with the United States Secretary of State (1982-1988).

As Foreign Secretary, he was responsible for the Mexican participation in the Central American peace process that took place from 1982 to 1988. For those purposes and together with Venezuela, Colombia and Panama, he established the Contadora Group as a diplomatic instrument to bring peace and stability to the area.

Together with the Foreign Ministers of Argentina, Brazil, Colombia, Panama, Peru, Uruguay and Venezuela, he took part in the creation of the Group of Eight, now the Rio Group, an institution devoted to promoting Latin American co-operation; under its auspices, presidential summits have taken place since 1987.

Member of a number of Mexican delegations to United Nations conferences, where he attended, among others, the United Nations Conference on the Law of the Sea, the Vienna Conference on the Law of Treaties and several United Nations conferences on disarmament. He was a member of the Mexican delegation to the 1981 Cancun Meeting of Heads of State and Government.

In 1980 he became President of the United Nations Commission on Transnational Corporations; elected Rapporteur of the Inter-governmental Working Group on a Code of Conduct for Transnational Corporations (1978-1980); he was the Mexican representative to the Commission on Transnational Corporations (1977-1981).

Member of the Mexican delegations to the annual meetings of the International Monetary Fund, the World Bank and the Inter-American Development Bank, as well as the Group of 24 (1976-1980).

Member of the United Nations International Law Commission (1996-2005). General Counsel of Grupo ICA, the largest construction company in Mexico (1997-2005).

Judge *ad hoc* of the International Court of Justice in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*.

Member of the Board of Trustees of the Permanent Court of Arbitration Financial Assistance Fund (since 2006). Member of the Commission of Arbitration of the Mexican Chamber of Commerce. President of an arbitral tribunal in an ICC case and in an ICSID case.

Member of the Executive Council of the American Society of International Law (1974-1975). President of the Mexican Branch of the International Law Association (ILA) (2000-2005).

Member of the Executive Council of Transparencia Mexicana, a non-governmental organization linked to international transparency.

Member of the Executive Board of the Mexican Council of Foreign Relations.

Former member of the Editorial Board of *Foro Internacional*, the journal of international affairs of El Colegio de Mexico.

He has written a considerable number of books and articles on the United Nations, international law, foreign policy, and international economic issues.

Publications include: "Las Naciones Unidas, el Tratado de Río y la OEA" (The United Nations, the Rio Treaty and the Organization of American States (OAS)), *Foro Internacional*, Vol. VII, Nos. 1-2, 1967; *Las Naciones Unidas: dilema a los 25 años* (The United Nations: Dilemma at 25 years) (co-editor), El Colegio de México, 1970; "Derecho del Mar: apuntes sobre el sistema legal mexicano" (Law of the sea: Notes on the Mexican legal system), *La política exterior de México: realidad y perspectivas*, El Colegio de México, 1972; "Los orígenes políticos del Porfiriato" (Political origins of the Porfiriato), *Foro Internacional*, Vol. XII, No. 3, 1972; *La inversión extranjera en México* (Foreign investment in Mexico), Fondo de Cultura Económica, 1973; *Las empresas transnacionales en México* (Transnational corporations in Mexico), El Colegio de México, 1974; "A Mexican view of foreign investment", *Proceedings of the 68th annual meeting of the American Society of International Law*, 1974; "Mexico and the Law of the Sea", in *The Changing Law of the Sea: Western Hemisphere Perspectives*, Ralph Zacklin (ed.), Sijthoff, 1974; "La estrategia de las corporaciones transnacionales y el sistema jurídico de los Estados: la experiencia latinoamericana" (Strategies of transnational corporations and legal systems of States: the Latin American experience), OAS, Series K/XXI.I; Inter-American Convention on General Rules of Private International Law (CIDIP)-IV (mimeograph), 1974; "GATT, ALALC y el trato de más favor" (General Agreement on Tariffs and Trade (GATT), Latin American Free Trade Association (LAFTA) and Most Favoured Nation Treatment), in *Lecturas: Derecho Económico Internacional*, Fondo de Cultura Económica, 1974; "Las empresas transnacionales y la transferencia de tecnología: perspectivas para su regulación internacional" (Transnational corporations and the transfer of technology: views on international controls), in *Los problemas de un mundo en proceso de cambio*. Luis González Souza and Ricardo Méndez Silva (eds.), Universidad Autónoma de México (UNAM), 1978; "Perspectivas de un país de desarrollo intermedio sobre la economía internacional" (Views of a developing country on the international economy), *Visión del México contemporáneo*, El Colegio de México, 1979.

"Las nuevas reglas del GATT y el sistema legal mexicano" (The new GATT rules and the Mexican legal system), *Comercio Exterior*, 1980; "Inversión extranjera, deuda externa y comercio exterior: notas sobre el orden jurídico mexicano" (Foreign investment, external debt and foreign trade: notes on the Mexican legal order), *Anuario Jurídico*, Instituto de Investigaciones Jurídicas de la UNAM, 1980; "La crisis económica mundial: el nuevo orden internacional y la planeación: comentarios" (The world economic crisis: the new international order and planning:

commentaries), in *Planeación para el desarrollo*, SPP/Fondo de Cultura Económica, 1981; "La regulación internacional de las empresas transnacionales" (International regulation of transnational corporations), *Foro Internacional*, No. 84, 1981; "La regulación jurídica de las inversiones extranjeras en México" (Legal regulation of foreign investments in Mexico), *Aspectos jurídicos de la planeación en México*, SPP/Editorial Porrúa, 1981; "Perspectivas de la relación entre México y Estados Unidos" (Perspectives on the relationship between Mexico and the United States), in Institutional Revolutionary Party, Comisión de Asuntos Internacionales, *Grandes temas de política exterior*, Fondo de Cultura Económica, 1983, pp. 308-310; "Reflexiones sobre la política exterior de México" (Reflections on Mexican foreign policy), *Foro Internacional*, Vol. XXIV, No. 4, 1984; "México en las Naciones Unidas: un balance de cuatro décadas" (Mexico in the United Nations: taking stock after four decades), in *México en las Naciones Unidas*, México, Secretariat of Foreign Affairs, 1986, pp. 7-13; "Política exterior de México – Discursos y documentos" (Mexican foreign policy – statements and documents), six volumes covering the period from 1983 to 1988, México, Secretariat of Foreign Affairs, 1983-1988; "México en la concertación política internacional" (Mexico in the international political sphere), in Rosario Green (ed.), *México y sus estrategias internacionales*, Diana, 1989, pp. 119-133.

"Latin American-European Relations in the 1990s", in Dermot Keogh (ed.), *Beyond the Cold War: Europe and the Superpowers in the 1990s*, Hibernian University Press, 1990, pp. 94-106; "La política exterior de México en la coyuntura internacional" (Mexican foreign policy at the current international juncture), in *Coloquio de Invierno. Los grandes cambios de nuestro tiempo: la situación internacional, América Latina y México. México y los cambios de nuestro tiempo*, Vol. III, UNAM/Consejo Nacional para la Cultura y las Artes (CONACULTA)/Fondo de Cultura Económica, 1992, pp. 290-300; "Política exterior y estrategias de seguridad y defensa: los trabajos de la Comunidad Europea" (Foreign policy and security and defence strategies: the work of the European Community), *México y Europa*, México, Secretariat of Foreign Affairs, 1992; "Seguridad y defensa: después de Maastricht" (Security and defence: after Maastricht), *Nexos*, No. 172, 1992; "Doctrina y práctica de la política exterior de México (1982-1988)" (Doctrine and practice in Mexican foreign policy (1982-1988)), Ensayos Jalincienses, El Colegio de Jalisco, 1993; "Régimen de partidos y renovación continua" (The party system and continuing renewal), *Examen*, No. 67, 1994; "Política exterior para el desarrollo nacional (Foreign policy for nacional development), *Examen*, No. 54, 1993; "Política exterior y tratado de libre comercio" (Foreign policy and the free trade agreement), *Comercio Exterior*, 1994; "Los intereses de la política exterior" (Foreign policy interests), in César Sepúlveda (ed.), *La política internacional de México en el decenio de los ochenta*, Fondo de Cultura Económica, 1994; "Asuntos internacionales de México: una bibliografía (1980-1993)" (Mexican international affairs: a bibliography (1980-1993)), in César Sepúlveda (ed.), *La política internacional de*

México en el decenio de los ochenta, Fondo de Cultura Económica, 1994; "Los intereses de la política exterior" (Foreign policy interests), *Nexos*, No. 203, 1994; "No intervención y derecho de injerencia: el imperio o la decadencia de la soberanía" (Non-intervention and the right to intervene: the preponderance or erosion of sovereignty), in Modesto Seara Vázquez (ed.), *Las Naciones Unidas a los 50 años*, Fondo de Cultura Económica, 1995; "El oficio internacional" (International vocation), introduction to the *Obras Completas de Jorge Castañeda*, three volumes, co-published by El Colegio de México and the Secretariat of Foreign Affairs, 1995; "México, el Consejo de Seguridad y el futuro de las Naciones Unidas" (Mexico, the Security Council and the future of the United Nations), *Foro Internacional*, No. 142, 1995, El Colegio de México; "Un galope en la obscuridad: México, el Consejo de Seguridad y el futuro de la ONU" (Galloping into the darkness: Mexico, the Security Council and the future of the United Nations), *Enfoque*, Sunday supplement to the newspaper *Reforma*, 1995; "El Senado y la política exterior" (The Senate and foreign policy), in *Libro homenaje a Rafael Segovia, con motivo de su designación como profesor emérito del Colegio de México*, El Colegio de México, Fondo de Cultura Económica, Consejo Nacional de Ciencia y Tecnología (CONACYT), 1998; "El equilibrio del poder en perspectiva" (The balance of power in perspective), Review of the book *Diplomacy* by Henry Kissinger, *Este País*, 1996; "México y Europa" (Mexico and Europe), *Este País*, 1996; "Hacia un nuevo concierto europeo" (Towards a new European harmony). Commentaries on the special issue of *Revista Mexicana de Política Exterior* (49) devoted to Mexico and the European Union, *Este País*, 1996; "México y su compromiso con la protección de los derechos humanos" (Mexico and its commitment to protecting human rights), *Revista de la Facultad de Derecho de México*, Nos. 205-206, UNAM, 1996; "México y la Unión Europea: hacia un nuevo entendimiento" (Mexico and the European Union: towards a new understanding), *Todo México 1997, Enciclopedia de México*, 1997; "Los valores éticos y el orden jurídico mexicano: la perspectiva del derecho internacional" (Ethical values and the Mexican legal order from the viewpoint of international law), in Sergio García Ramírez (ed.), *Los valores en el derecho mexicano*, Instituto de Investigaciones Jurídicas de la UNAM/Fondo de Cultura Económica, 1997; "Objetivos e intereses de la política exterior" (Foreign policy goals and interests), in Ilan Bizberg (ed.), *México ante el fin de la guerra fría*, Centro de Estudios Internacionales, El Colegio de México, 1998.

"Las relaciones interamericanas: cuestiones de política, derecho y diplomacia" (Inter-American relations: matters of policy, law and diplomacy), *Revista Mexicana de Política Exterior*, No. 59, México, Secretariat of Foreign Affairs, Instituto Matías Romero, 2000; "Memorias de la diplomacia mexicana" (Recollections of Mexican diplomacy), *Revista Mexicana de Política Exterior*, No. 60, México, Secretariat of Foreign Affairs, Instituto Matías Romero, 2000; "La globalización y las opciones nacionales: memoria. La globalización y las soberanías nacionales" (Globalization and national options: report. Globalization and national sovereignty), Fondo de Cultura Económica, 2000; "Orden y desorden internacional: La función del Estado" (International order and disorder: the role of the State), *Este País*, No. 119, 2001; "Las definiciones de la política exterior" (Defining foreign policy), in Rafael Fernández de Castro (co-ord.), *México en el mundo: los desafíos para México en 2001*, Instituto Tecnológico Autónomo de México (ITAM), 2001; "Una asignatura pendiente: la participación de México en las operaciones de paz de la ONU" (Unfinished business: Mexico's participation in United Nations peace operations), in Miguel Covian (ed.), *Cumbre del Milenio: Hacia dónde van las Naciones Unidas?*, México, Instituto Matías Romero, Secretariat of Foreign Affairs, 2001; "Terrorismo, seguridad nacional y seguridad colectiva" (Terrorism, national security and collective security), *Este País*, 2002; "Terrorismo transnacional y seguridad colectiva" (Transnational terrorism and collective security), in Rafael Fernández de Castro (co-ord.), *Cambio y continuidad en la política exterior de México: México en el mundo 2002*, Editorial Planeta/Ariel, 2002; "Política exterior: terrorismo, seguridad nacional y seguridad colectiva" (Foreign policy: terrorism, national security and collective security), in Enrique González Pedrero (co-ord.), *México: Transiciones múltiples, gobernabilidad y Estado nacional*, México, Instituto Nacional de Administración Pública/Fondo de Cultura Económica, 2003; "El eje del mal y su destino manifiesto" (The axis of evil and its manifest destiny), in José Juan de Olloqui (co-ord.), *Problemas jurídicos y políticos del terrorismo*, Instituto de Investigaciones Jurídicas, UNAM, 2003; "Educar para entender" (Educating for understanding), *Este País*, 2003; "Orden jurídico y derechos humanos" (The legal order and human rights), *Este País*, 2004; "Derechos humanos: México en la perspectiva internacional" (Human rights: Mexico from an international perspective), *Iurisdictio*, bulletin of the High Court of Justice of the State of Querétaro, 2005; "Mexico and the settlement of investment disputes: ICSID as the recommended option", The Institute for Transnational Arbitration, Vol. 19, No. 1, 2005; "Una perspectiva mexicana de los asuntos internacionales" (A Mexican perspective on international affairs), *Este País*, 2005; "México y el arreglo de controversias en materia de inversión: el CIADI como opción necesaria", in Gustavo Vega (co-ord.), *Bernardo Sepúlveda, Juez de la Corte Internacional de Justicia*, El Colegio de México, 2007.

In 1984, he received from King Juan Carlos of Spain the Príncipe de Asturias Prize in the field of international co-operation. In 1985, Unesco awarded him the Simón Bolívar Prize. He is the recipient of a number of orders, decorations and medals awarded by foreign Governments, which include, among others, the Knights Grand Cross of the Order of Saint Michael and Saint George; the Grand Cross, Order of Isabel la Católica; the Grand Cross, Order of General San Martín; Ribbon, Order of Kwang-Wha; the Grand Cross, Order of Cristo; Order of the Republic of Egypt, First Class; the Grand Cross of the Order of Cruzeiro do Sul; the Grand Cordon, Order of the Rising Sun; Grand Officer, Ordre de la Légion d'Honneur.

Judge Mohamed Bennouna

(Member of the Court since 6 February 2006)

Born in Marrakesh, Morocco, on 29 April 1943.

Doctor of International Law, Professor of International Law. Diploma from the Hague Academy of International Law. Member of the Institute of International Law.

Professional activities: Ambassador, Permanent Representative of the Kingdom of Morocco to the United Nations (March 2001-February 2006). Judge of the International Criminal Tribunal for the former Yugoslavia, The Hague (1998-2001). Director General of the Arab World Institute (Institut du monde arabe, Paris) (1991-1998). Ambassador, Deputy Permanent Representative of Morocco to the United Nations (1985-1989). Professor and later Dean of the Faculty of Law in Rabat (Morocco) (1972-1984). Founder and first Director of the *Revue juridique, politique et économique de Maroc* (1976). Visiting Professor at various universities: Tunis, Algiers, Nice, New York, Thessaloniki, Paris. Judge *ad hoc* at the International Court of Justice in the case concerning *Frontier Dispute (Benin/Niger)* (2002-2005).

Chairman of the Sixth Committee (Legal Matters) at the Fifty-ninth Session of the General Assembly of the United Nations. Chairman of G77 and China at the United Nations (2003). Member of the Unesco World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) (2002-2006). Member of the Unesco International Bioethics Committee (1992-1998) and of the Unesco International Panel on Democracy and Development (1997-2002). Chairman of a panel of the United Nations Compensation Commission, Geneva (1992-1995). Member of the United Nations International Law Commission, Geneva (1986-1998). First Special Rapporteur of the International Law Commission on the question of diplomatic protection (1997-1998). Legal Counsel to the Moroccan delegation at numerous sessions of the United Nations General Assembly (1974-1985). Member of the Moroccan delegation at the United Nations Conference on the Law of the Sea (1974-1982).

Author of numerous books, essays and articles on international law: *Le consentement à l'ingérence militaire dans les conflits internes*, Librairie générale de droit et de jurisprudence, 1974; "Le droit international relatif aux matières premières", *Recueil des cours*, Hague Academy of International Law, Vol. 177, 1982; *Le droit international du développement*, Berger-Levrault, 1983; *La spécificité du Maghreb arabe*, Fondation du roi Abdul Aziz, 1990; "Les sanctions économiques des Nations Unies", *Recueil des cours*, Hague Academy of International Law, Vol. 300, 2002. "Le Maghreb entre le mythe et la réalité", revue *Intégration*, 1974, No. 1; "Les fonds marins entre l'héritage commun et la querelle des héritiers", *Revue iranienne des relations internationales*, 1975, No. 5; "Le Sahara occidental devant la Cour internationale de Justice", *Revue juridique, politique et économique du Maroc* (*RJPEM*), 1976, No. 1; "Le nouvel ordre économique international et la doctrine juridique", *RJPEM*, 1977, No. 2; "Le Maroc et le droit de la mer", *RJPEM*, 1979, No. 6; "Les droits d'exploitation des ressources minérales des océans", *Revue générale de droit international public*, 1980, No. 1; "L'admission d'un nouveau membre à l'Organisation de l'unité africaine", *Annuaire français de droit international (AFDI)*, 1980; "The Outer Limit of the Continental Shelf", *The Management of Humanity's Resources: The Law of the Sea*, Martinus Nijhoff, 1982; "Réalité et imaginaire en droit international du développement", *Le droit des peuples à disposer d'eux-mêmes: Miscellanies presented to Charles Chaumont*, Pedone, 1984; "Défi du développement et volontarisme normatif", *La formation des normes en droit international du développement*, CNRS, 1984; "Le caractère pluridimentionnel du droit de la mer", in R.-J. Dupuy and D. Vignes (eds.), *Traité du nouveau droit de la mer*, Economica, 1985; "La zone économique exclusive marocaine", *Le Parlement et la pratique législative au Maroc*, Editions Toubkal, 1985; "L'Islam et les relations internationales", *Renouveau des études sur l'Islam et le monde arabe*, Fondation du roi Abdul Aziz, 1987; "La délimitation des espaces maritimes en Méditerranée", *The Law and the Sea: Essays in Memory of J. Carroz*, FAO Publications, 1987; "La Convention des Nations Unies relative aux droits de l'enfant", *AFDI*, 1989; "La création d'une juridiction pénale internationale et la souveraineté des Etats", *AFDI*, 1990; "Quelle sécurité pour quelle Méditerranée ?", *La Méditerranée en question – Conflits et interdépendances*, CNRS, 1991; "International Law and Development", in M. Bedjaoui (General Editor), *International Law: Achievements and Prospects*, Unesco-Martinus Nijhoff, 1991; "L'après-guerre froide et les nouveaux enjeux des relations internationales", *Les Nations Unies*, Publications de l'Académie du Royaume du Maroc, 1991; "La dimension géopolitique du Maroc méditerranéen", *Le Maroc méditerranéen*, Editions Le Fennec, 1992; "L'obligation juridique dans le monde de l'après-guerre froide", *AFDI*, 1993; "Le règlement des différends peut-il limiter le droit de se faire justice à soi-même ?", *Journal européen de droit international*, 1994, Vol. 5, No. 1; "The United Nations, Guarantor of International Peace and Security", *The United Nations at Age Fifty – A Legal Perspective*, C. Tomuschat (ed.), Kluwer Law International, 1995; "La protection diplomatique, un droit de l'Etat ?", *Boutros-Ghali Amicorum Discipulorumque Liber*, Bruylant, 1998; "Droit international et diversité culturelle", *International Law at the Turn of the Century*, Sakkoulas Publications, 1998; "L'embargo dans la pratique des Nations Unies – Radioscopie d'un moyen de pression", *Liber Amicorum Mohammed Bedjaoui*, Yakpo and I. Boumedra (eds.), Kluwer Law International, 1999; "La Cour pénale internationale", *Le droit international pénal*, H. Ascensio, E. Decaux and A. Pellet (eds.), Pedone, 2000; "The Characterisation of the Armed Conflict in the Practice of the ICTY", *Essays on ICTY Procedure and Evidence in Honour of G. K. McDonald*, R. May *et al.* (eds.), Kluwer Law International, 2001; "The Statute's Rules on Crimes and Existing or Developing International Law", *The Rome Statute of the International Criminal Court: A Commentary*, Vol. II, A. Cassese, P. Gaeta and J. Jones (eds.), Oxford, 2002; "Should the United Nations be Changed?", *The Global Community Yearbook of International Law and Jurisprudence*, Vol. I, 2004; "Les effectivités concurrentes dans le règlement des contentieux territoriaux", *Droit international et coopération internationale, Hommage à J.-A. Touscoz*, France Europe Editions, 2007.

Awards: National Prize for culture (Morocco); Medal for culture (Yemen); and Knight of the National Order of the Legion of Honour (France).

Judge Leonid SKOTNIKOV

(Member of the Court since 6 February 2006)

Born in Kalinin, USSR, on 26 March 1951.

Diploma in International Law; Moscow Institute of International Relations (1974). Fellow, Center for International Affairs, Harvard University (1990).

Officer (legal issues), Consular Department, Ministry of Foreign Affairs of the USSR (1974-1977). Officer (United Nations General Assembly Third and Sixth Committees matters), Permanent Mission of the USSR to the United Nations (1977-1981). Officer (human rights issues) (1981-1986), then Head of Division (general problems of international law, co-operation in countering new threats and challenges) (1987-1991), Legal Department, Ministry of Foreign Affairs of the USSR. Director (1991-1992), Legal Department, Ministry of Foreign Affairs of the Russian Federation (1991-1992). Ambassador Extraordinary and Plenipotentiary of the Russian Federation to the Kingdom of the Netherlands (1992-1998). Director, Legal Department, Member of the Collegium, Ministry of Foreign Affairs of the Russian Federation (1998-2001). Ambassador, Permanent Representative of the Russian Federation to the United Nations Office and other International Organizations in Geneva, as well as to the Conference on Disarmament (2001-2005).

Participation in major international forums and negotiations:

Member of the delegation of the USSR to the negotiations on bilateral consular conventions between the Government of the USSR and the Governments of the People's Democratic Republic of Algeria, the Republic of Benin, the Republic of Cape Verde, the Republic of Mali, the Republic of Tunisia, the Republic of Turkey (1976-1977).

Representative of the USSR, the United Nations General Assembly intersessional Working Group to elaborate an international convention on the protection of the rights of all migrant workers and their families (1979-1981).

Representative of the USSR in the United Nations General Assembly 37th session Working Group on Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture, and other cruel, inhuman or degrading treatment or punishment (1982).

Member of the delegation of the USSR to the Third Committee, United Nations General Assembly, Thirty-seventh Session (1982).

Member of the delegation of the USSR to the session of the United Nations Economic and Social Council (ECOSOC) (1983).

Representative of the USSR, the United Nations Seminar on the Encouragement of Understanding, Tolerance and Respect in Matters relating to Freedom of Religion or Belief (Geneva) (1984).

Member of the delegation of the USSR, Meeting of Experts on Questions concerning Respect, in their States, for Human Rights and Fundamental Freedoms, in all their Aspects, as embodied in the Final Act, CSCE (Ottawa) (1985).

Member of the delegation of the USSR to the session of the United Nations Commission on Human Rights (1986).

Member of the delegation of the USSR to the Sixth Committee, United Nations General Assembly, Forty-second to Forty-fourth Sessions (1987-1989).

Member of the Russian delegation to the meetings of Heads of States and Governments of the Commonwealth of Independent States (Alma-Ata, 1991; Minsk, 1991; Moscow, 1992; Minsk, 1992; Kiev, 1992).

Deputy Head of the Russian delegation to the Second Session of the Conference of States Parties of the Organization for the Prohibition of Chemical Weapons (1997).

Member of the Administrative Council of the Permanent Court of Arbitration (1992-1998).

Member of the Permanent Court of Arbitration Steering Committee established by the Secretary-General pursuant to the authorization of the PCA Administrative Council with the purpose to assist the International Bureau and the Administrative Council in preparing for the centenary of the PCA, by making recommendations concerning revision of the Hague conventions and improvement of the PCA's dispute settlement mechanisms (1994-1998).

Head of the Russian delegation to the negotiations with the Governments of the Republic of Iceland and the Kingdom of Norway on the trilateral agreement concerning certain aspects of co-operation in the area of fisheries (1999).

Representative of Russia, "Ministerial on Ice", Antarctica (1999).

Co-Chairman of the Russian-United States Working Group on Law Enforcement (1999).

Member of the Russian delegation to the United Nations General Assembly, Fifty-third to Fifty-fifth Sessions; Representative of Russia in the Sixth Committee (1998-2000).

Representative of Russia in the *Ad Hoc* Committee of Legal Advisers on Public International Law (CAHDI), Council of Europe. Participated in the 16th, 17th, 19th and 20th CADI meetings (Paris, 1998; Vienna, 1999; Berlin, 2000; Strasbourg, 2001).

Chairman of the XXIV Antarctic Treaty Consultative Meeting, St. Petersburg (2001).

Head of the Russian delegation to the Forum on Afghan Refugees and Displaced Populations (Geneva) (2001).

Head of the Russian delegation to the 2nd Review Conference of the States Parties to the Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva) (2001).

Head of the Russian delegation to the negotiations with the Kingdom of Norway on the delimitation of exclusive economic zones and continental shelf in the Barents Sea (1992, 1998-2002).

Head of the Russian delegation to the 5th Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Geneva) (2001-2002).

Head of the Russian delegation to the 3rd and 4th Annual Conferences of the States Parties to the Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva) (2001-2002).

Head of the Russian delegation to the Annual Meeting of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva) (2002).

Member, Board of Trustees of the United Nations Institute for Training and Research (UNITAR) (2002-2005).

Member of the Russian delegation to the World Summit on Information Society (WSIS) (Geneva) (2003).

Deputy Head of the Russian delegation to the Substantive Annual Session of the United Nations Economic and Social Council (ECOSOC) (2003).

Head of the Russian delegation to the 28th International Conference of the Red Cross and Red Crescent (2003).

Head of the Russian delegation to the One-hundred-and-eleventh Session of the Executive Board of the World Health Organization (2003).

Government Delegate of Russia to the Ninety-second Session of the International Labour Conference (2004).

Representative of Russia in the First Committee, United Nations General Assembly, Fifty-ninth Session (2004).

Acting Head of the Russian delegation to the Fifty-eighth, Fifty-ninth, Sixtieth and Sixty-first Sessions of the United Nations Commission on Human Rights (2002-2005).

Scholarly, research and expert activities: participated as a panellist in the Conference "Transatlantic Storms? US-European Relations After European Monetary Union (EMU)", held by the Weatherhead Center for International Affairs, Harvard University (Talloires, France) (1998);

took part in the preparation and the work of the Meetings Dedicated to the Centennial of the First International Peace Conference (The Hague and St. Petersburg) (1999); participated in the international conference "Entering the XXI Century: Primacy of Law in International Relations" (Moscow) (2000). Member of the Foundation Council of the Geneva Centre for Security Policy (2002-2005). Participated in the international Workshop on Article 51 of the United Nations Charter in Light of Future Threats to International Peace and Security organized by the Government of Switzerland as a contribution to the work of the High-Level Panel on Threats, Challenges and Change (Geneva) (2004). Took part as a panellist in the 99th meeting of the American Society of International Law (Washington, D.C.) (2005). Members of the Curatorium of the Hague Academy of International Law since 2007.

Author of a number of publications on international law, including: "The Right of Self-Defense and the New Security Imperatives", *International Affairs,* Vol. 9, 2004; "Legal Limits of the Use of Force", *International Affairs,* Vol. 11, 2003; "Entering the XXI Century: Primacy of Law in International Relations", (co-author), *International Affairs,* No. 4, 1989.

Decorations: Order of Friendship (2002). Decree of Commendation by the President of the Russian Federation (2004).

II. JUDGES *AD HOC*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad hoc* are to take precedence after the Members of the Court and in order of seniority of age.

Judge *ad hoc* Krzysztof SKUBISZEWSKI

(Judge *ad hoc* in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*)

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznań *(magister juris)* (1945-1949); Doctor *juris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard Law School (Master of Laws) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznań (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz, Geneva and Warsaw (Cardinal Wyszynski University).

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznań (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (1973-1996); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of International Studies at Geneva; College of Europe at Bruges, Belgium, and also the Clubs of International Law of Harvard, Duke and Oxford Universities; Max-Planck Institute in Heidelberg; Universities of Vienna and Graz; Faculty of Law, University of Paris II; Royal Institute of International Affairs, Chatham House; All Souls College, Oxford; Institut d'Etudes Politiques de Paris; Free University, Berlin; also Hersch Lauterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford (1990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991); Hague Academy Jubilee Lecture (1998); and numerous other lectures in European, American, Australian and Asian Societies of Political and Legal Sciences or International Relations.

Member of "Solidarity" (since 1980); Member of the Primate of Poland Social Council (1981-1984); Member of the Co-ordinating Committee of the Poland-Federal Republic of Germany Forum, representing the secretariat of the Polish Episcopate (1984-1989); Member of the Consultative Council to the Chairman of the Council of State of the Polish People's Republic (1986-1989); Minister for Foreign Affairs (1989-1993).

Member (since 4 December 1993) and President (since 16 February 1994) of the Iran-United States Claims Tribunal.

Member, Bureau of the Court of Conciliation and Arbitration within the Organization for Security and Co-operation in Europe (OSCE), Geneva (1995-2000).

Judge *ad hoc* in the International Court of Justice in the case concerning *East Timor (Portugal* v. *Australia)*.

Chairman of the Arbitration Tribunal Netherlands/France set up under the Rhine Convention of 1976 (2000-2004).

Co-founder and first Chairman of the Council on Foreign Policy (Warsaw, since 1996).

Member of the Academies of Sciences of Warsaw and of Cracow; Correspondent, Institut de France; Member, Pontifical Academy of Social Sciences, Vatican; Member, Society of Arts and Sciences, Poznań; Western Institute, Poznań; International Law Association (Polish branch); Institut de droit international (First Vice-President, 1995-1997), Honorary Member (since 2005); American Society of International Law (Honorary Member, 1991); Société française pour le droit international; Deutsche Gesellschaft für Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher, Gray's Inn. Curator, United Nations Student Association, Poznań (1960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polonia Restituta (1986); Grand Cross of the same Order (1993); Cavaliere di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier de la Légion d'honneur (1991); Grosskreuz des Verdienstordens der Bundesrepublik Deutschland (1991); Order of Diplomatic Merit of the Republic of Korea (1991); Order of Merit (Chile, 1991); Cross of Merit of the Republic of Hungary (1994); Giedymin Order of Lithuania (2001). Austrian Honorary Cross of Science and Art (2002).

Ministry of Higher Education Prize (1970), Prize of the monthly "Odra". Alexander von Humboldt Foundation Research Prize (1984); I. Radziszewski Prize, Catholic University of Lublin (1992); Wartburg Prize, Germany (1992); Robert Schuman Gold Medal (1999); German-Polish Prize (1999, awarded by virtue of Article 35 of the Treaty of 1991 between the two States); Pomerania Nostra Prize (2005).

Author of six books and over 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

(Judge *ad hoc* in the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay))*

Born in Vigo, Spain, on 18 November 1929.

Licenciado (1952) and Doctor of Law (1959) of the University of Valladolid, Spain. *Diplomé d'études supérieures européennes* (1955) and Doctor of Law (1957), the University of Saar, Germany. Doctor *honoris causa* of Law, the University of Alcalá de Henares (1993) and the University Carlos III of Madrid (2006).

Member of the Madrid Bar Association. Legal consultant and counsel or advocate in international cases. Arbitrator in the International Centre for the Settlement of Investment Disputes (ICSID).

Member of the Permanent Court of Arbitration; Member of the Institute of International Law; Second Vice-President, Vancouver (2001); Member of the International Law Association; Honorary Member of the Spanish Association of International Law Professors; Member of the Société française pour le droit international; Member of the American Society of International Law; Associate Member of the Hispano-Luso-American Institute of International Law.

Judge *ad hoc* at the International Court of Justice in the cases concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/ Honduras: Nicaragua intervening)* (1989-1992), *Fisheries Jurisdiction (Spain* v. *Canada)* (1995-1998), *Legality of Use of Force (Yugoslavia* v. *Spain)* (1999), *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* (1991-2001), *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the*

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras))*, brought before a Chamber of the Court (2002-2003) and *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*, (1999-2007).

Former Registrar of the International Court of Justice (1980-1986). Former member of the Office of Legal Affairs of the Secretariat of the United Nations (1959-1980) being, since 1975, Deputy Director of the Codification Division and Deputy Secretary of the International Law Commission. During that period served continually United Nations legal bodies (Sixth Committee of the General Assembly; International Law Commission; special or *ad hoc* committees), participating also in all the United Nations diplomatic conferences convened between 1960 and 1980 for the purpose of the progressive development of international law and its codification.

Author of various published studies and articles on questions of international law and international organizations and procedures, including: *À propos de l'interprétation et de la révision des arrêts de la Cour internationale de Justice*, 1987; *Resignations at the World Court*, 1988; *La reciprocidad en el sistema de jurisdicción obligatoria establecido en el Artículo 36, párrafo 2, del Estatuto de la Corte Internacional de Justicia*, 1988; "Subsidiary Organs of International Organizations", in *A Handbook on International Organizations*, published by the Hague Academy of International Law, 1988; "Problems and Issues Raised by 'Crimes of States': An Overview", *International Crimes of States. A Critical Analysis of the ILC's Draft Article 19 on State Responsibility*, 1989; "L'arbitrage interétatique. Avec des références particulières à la Convention européenne pour le règlement des différends du 20 avril 1957", in *The Peaceful Settlement of International Disputes in Europe: Future Prospects*, Workshop of the Hague Academy of International Law, 1990; "Observations on 'Non-Appearance' before the International Court of Justice", *Annuaire de l'Institut de droit international*, session de Bâle, Vol. 64-I, 1991; "Succession d'Etats", in Unesco, *Droit international: Bilan et perspectives*, 1991; *Reciprocity in the System of Compulsory Jurisdiction and in Other Modalities of Contentious Jurisdiction Exercised by the International Court of Justice*, 1992; *Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacionales: Comentarios y observaciones sobre la Declaración de los Miembros del Consejo de Seguridad de 31 de enero de 1992*, 1993; "Spain and the Jurisdiction of the International Court of Justice: From Past to Present", *Archiv des Völkerrechts*, 1994; *The* Uti Possidetis Juris *Principle in Historical Perspective*, 1994; "Some Considerations on the Respective Roles of the Security Council and the International Court of Justice with Respect to 'the Prevention of Aggravation of Disputes' in the Domain of the Pacific Settlement of International Disputes or Situations", in *Proceedings of the Qatar International Law Conference '94* (United Nations Decade of

International Law), 1995; "L'intervention dans la procédure de la Cour internationale de Justice", Hague Academy of International Law, *Recueil des cours*, Vol. 256 (1995); "La función de la Corte Internacional de Justicia en el sistema de la Carta de las Naciones Unidas", *Proceedings of the United Nations Congress on Public International Law, New York (March 1995)*, 1996; *La Corte Internacional de Justicia en el sistema de la Carta en el cincuenta aniversario de las Naciones Unidas*, Universidad Carlos III, Madrid, 1996; "The New Theory of 'Indispensable Parties' under the Statute of the International Court of Justice", *Essays in Honour of Eric Suy*, 1998; "Interpretation of Treaties by the International Court of Justice Following the Adoption of the 1969 Vienna Convention on the Law of Treaties", *Liber Amicorum Professor Seidl-Hohenveldern*, 1998; "La function de la Cour internationale de Justice: tendances actuelles du règlement judiciaire", *Liber Amicorum Mohammed Bedjaoui*, 1999; "Are Prior Negotiations a General Condition for Judicial Settlement by the International Court of Justice?", *Liber Amicorum in Memoriam of Judge José Maria Ruda*, 2000; "Acerca de las immunidades del Jefe de Estado o de Gobieno en derecho internacional y sus limites", *El Derecho Internacional en los albores del siglo XXI, Homenaje al professor Juan Manuel Castro-Rial*, 2002.

Awarded the Spanish Great Cross of Civil Merit (1987) and other foreign decorations (all after 1987).

Judge *ad hoc* Gilbert GUILLAUME

(Judge *ad hoc* in the case concerning *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*, in the case concerning *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*, in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)* and in the case concerning the *Maritime Dispute (Peru* v. *Chile)*)

Born in Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981-1996).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft

(Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the International Court of Justice from 14 September 1987 to 11 February 2005; President of the Court from 2000 to 2003, President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Benin/Niger)* (2002-2005); President of the Chamber formed to deal with the case concerning the *Application for Revision of the Judgment of 11 September 1992 in the case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* (2002-2003).

Member of the Permanent Court of Arbitration (since 1980). Designated arbitrator by the International Telecommunications Satellite Organization (INTELSAT), the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID). Member of the Institut de France (Académie des Sciences morales et politiques). Member of the Académie de marine. Member of the Académie de l'air et de l'espace.

President of the French branch of the International Law Association (ILA). Member of the Institute of International Law. Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the International

Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, Vol. 215, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994) and of a book entitled *La Cour internationale de Justice à l'aube du XXI*^{ème} *– Le regard d'un juge* (2003).

Judge *ad hoc* L. Yves Fortier

(Judge *ad hoc* in the case concerning the *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*)

Born in Quebec, Canada, on 11 September 1935.

Bachelor of Arts *summa cum laude* of the University of Montreal (1955). Bachelor of Civil Law, McGill University (1958); and Bachelor of Letters as a Rhodes Scholar at Oxford University (1960). Doctor of Laws *honoris causa*, the Law Society of Upper Canada (1989), Acadia University (1992), the University of British Columbia (1993), the University of Montreal (1999), and McGill University. Doctor of Commerce *honoris causa*, Ryerson University (2004) and Laval University (2008).

Admitted to the Bar of the Province of Quebec (1961). Joined at that time the predecessor firm of Ogilvy Renault of which he is Chairman since 1992. Queen's Counsel (1976). Officer of the Order of Canada (1984); elevated to the level of Companion in the Order (1991). Officer of the Order of Quebec (2006). Awarded the Médaille d'Or of the Quebec Bar (1992). President's Award of the Canadian Bar Association (1993).

Pleaded important cases before all court jurisdictions in Canada and before domestic as well as international arbitral panels.

Served as an arbitrator on many international arbitration panels constituted by various arbitration centres, including the International Chamber of Commerce (Paris), the London Court of International Arbitration, the American Arbitration Association, the Chamber of Commerce of Zurich and the International Centre for the Settlement of Investment Disputes (ICSID).

Counsel for Canada before the International Court of Justice in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (1984).

Since being called to the Bar, has served as Counsel to many Royal Commissions and Commissions of Inquiry in Canada. Canada's Chief Negotiator in the Canada-France fishing dispute (1987-1989). Counsel for Canada before the *ad hoc* International Panel of Arbitrators constituted to determine the maritime boundary between Canada and France in the

North Atlantic (1991). Canada's Chief Negotiator for the Canada-United States Pacific Salmon Treaty negotiations (1993-1998). Special Negotiator of the Government of Quebec to the Cree Nation (1993) and to the Innus Nation (2006). Appointed by the Security Council of the United Nations as Chairman of Panel C of the United Nations Compensation Commission in Geneva (Iraq-Kuwait) (1993) and of Panel F-3 E/F (1999). Counsel for Canada in the mediation of the Canada-United States Pacific Salmon dispute (1995). Secretary-General's Special Envoy to Malaysia (1997). Member of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (1998). Member of the Board of the International Accounting Standards Committee (since May 2000). Personal representative and mediator of the Secretary-General in the border dispute between Gabon and Equatorial Guinea (2003).

Canada's Ambassador and Permanent Representative to the United Nations in New York (1988-1992). Canada's Chief Delegate to the 43rd, 44th, 45th and 46th Sessions of the United Nations General Assembly (1988-1991). Vice-President of the 45th General Assembly (1990). Canada's Representative to the Security Council of the United Nations (1989-1990). President of the Council (1989).

Member of the Board of Directors of Rio Tinto plc and Nova Chemicals Corporation and former Member of the Board of Directors of Alcan Inc., the Royal Bank of Canada (Chairman), Hudson's Bay Company (Governor), Nortel Networks Corporation. Former Governor of McGill University and former administrator of the Institut neurologique de Montréal and of the Institut de recherches cliniques de Montréal. Member of the Board of Directors of several non-profit organizations including the Council for Canadian Unity, the C. D. Howe Institute, the Canadian Foundation for AIDS research (CANFAR) and the Canadian Institute for Advanced Legal Studies. One of the Founding Directors of the Canadian Bar Association Law for the Future Fund and Honorary Patron of the International Centre for Human Rights and Democratic Development. Member of the Board of Directors of the International Peace Academy and the United Nations International School. Member of the Executive Board of the International Association of Permanent Representatives to the United Nations (1989).

Member of numerous professional organizations, including the Canadian Bar Association, which he headed as National President in 1982-1983, the American Bar Association (honorary), the International Commission of Jurists (Canadian Section), the International Bar Association, the Union Internationale des Avocats, the ICC Institute of International Business Law and Practice, the International Law Association (Canadian Branch), the American College of Trial Lawyers (member of the Board of Regents, 1992-1996) and the American Society of International Law.

During past years, has concentrated activities in the field of international arbitration. President of the London Court of International Arbitration (1998-2001). Member of numerous institutions for international arbitration. Member of the CPR International Panel of

Distinguished Neutrals, the Quebec National and International Commercial Arbitration Centre (Chairman, Committee of Experts), the British Columbia International Commercial Arbitration Centre (member, Panel of Arbitrators), the International Council for Commercial Arbitration (ICCA), the Court of Arbitration for Sport (CAS), the Legal Service and Research Centre (LSRC), and the International Arbitration Club (London). Has been appointed in 2001 by the President of the Board of Directors of the ICSID as conciliator and arbitrator.

Member of the Permanent Court of Arbitration (1984-1989). Legal Adviser to the Commission on Civil Governance in Geneva (1992-1995). Member of the Trilateral Commission (member of the North American Executive Committee (since 1993)).

Judge *ad hoc* Christopher J. R. DUGARD

(Judge *ad hoc* in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*)

Born in Fort Beaufort, South Africa, on 23 August 1936.

B.A. (1956) and LL.B. (1958), University of Stellenbosch; LL.B. (1965), Diploma in International Law (1965) and LL.D. (1980), Cantab.; LL.D. *(honoris causa)* of the Universities of Natal (1990), Cape Town (1996), Port Elizabeth (2003), Witwatersrand and Pretoria (2004).

Lecturer in Law, University of Natal, Durban (1961-1963). Senior Lecturer in Law (1965-1969); Professor of Law (1969-1998); Chairman of the Governing Committee of the School of Law (1972-1974, 1978); Dean of the Faculty of Law (1975-1977); Director of the Centre for Applied Legal Studies (1978-1990) and Professor Emeritus (since 1998) of the University of the Witwatersrand. Professor, honorary, University of Pretoria (since 2000). Professor, honorary, University of the Western Cape (since 2001).

Tutor in Roman Dutch Law, University of Cambridge (1964-1965); Visiting Professor of Public and International Affairs, Woodrow Wilson School of Public and International Affairs, University of Princeton (taught course in Comparative Civil Rights) (1969); Visiting Professor of Law, Duke University (taught courses in Jurisprudence, International and Criminal Law) (1974-1975) (since 2008); Visiting Professor of Law, University of California, Berkeley (Boalt Hall) (taught course in International Protection of Human Rights) (1981); Visiting Fellow, Research Centre for International Law, University of Cambridge (1985); Visiting Professor of Law, University of Pennsylvania (taught courses in International Law and International Human Rights Law) (1989); Visiting Professor of Law, University of New South Wales, Australia (taught course in International Law) (1991); Arthur Goodhart visiting Professor of Legal Science, University of Cambridge (taught LL.M.

course in International Criminal Law) (1995-1996); Fellow, Sidney Sussex College, Cambridge (1995-1997); Director, Lauterpacht Research Centre for International Law, University of Cambridge (1995-1997); and Professor of Public International Law, University of Leiden (1998-2006).

Admitted as an advocate of the Supreme Court of South Africa (1959); practised at the Durban Bar (1961-1963); part-time consultant and advocate, principally in the fields of international law, human rights and constitutional law (since 1963); appointed Senior Counsel (since 1998).

President of the South African Institute of Race Relations (1978-1980); Member of National Administrative Committee of the South African Institute of International Affairs (1987-1997); Founder and Member of the National Council of Lawyers for Human Rights (1980-1991); Commissioner of the Human Rights Commission (1988-1989); Board Member of the Independent Board of Inquiry (1990-1994); Chancellor to Bishop Tutu, Diocese of Johannesburg (Anglican) (1985-1987); Member of the Council of the University of Fort Hare (1990-1998); Member of the Technical Committee for Investigating the Repeal or Amendment of Legislation Impeding Free Political Activity and Discriminatory Legislation (part of negotiations for Interim Constitution) (1993); Member of the Technical Committee to advise the Constitutional Assembly on the Drafting of a Bill of Rights for the 1996 Constitution (1995).

Member of the Study Committee on International Protection of Human Rights of the American Society of International Law (1973-1975); Member of the Committee on International Terrorism, International Law Association (1974-1984); Member of the Committee on Extradition and International Terrorism (1985-1988); Co-Rapporteur to the Committee on Extradition and Human Rights (1992-1998); President of the South African Branch of the International Law Association (1993-1995, 1998); Member of the Governing Body of the African Society of International and Comparative Law (1995-2000). Member of Institut de droit international (since 1999). Member of the International Law Commission (since 1996); Rapporteur and Member of the Bureau (1997-1998); Special Rapporteur on Diplomatic Protection (1999-2006). Member of Panel of Experts for Study on Customary Rules of International Humanitarian Law of the International Committee of the Red Cross (1997). Chairman of the Inquiry Commission established by the Commission on Human Rights to investigate violations of Human Rights and Humanitarian Law in the Occupied Palestinian Territories (2000-2001); Special Rapporteur to the Commission on Human Rights and Human Rights Council on the situation of Human Rights in the Occupied Palestinian Territories (2001-2008); Honorary Member, American Society of International Law (2008).

Author of numerous books including *International Law: A South African Perspective*, 3rd ed., 2005, and articles on international law.

Judge *ad hoc* Ahmed Mahiou

(Judge *ad hoc* in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*)

Born in Bouira, Algeria, in 1936.

University studies in law and political science, Toulouse (1958-1964). Doctor of Law, Nancy (1967). *Agrégation* in public law and political science, Paris (1968). Doctor *honoris causa*, University of Toulouse.

Teaching assistant, lecturer and professor at the University of Algiers and the École nationale d'administration (1964-1990). *Doyen* of the Faculty of Law and Economic Science of Algiers (1970-1973). *Professeur associé* at the University of Aix-en-Provence (1981-1983) and the University of Dijon (1990-1991).

Director of the Institut de recherches et d'études sur le Monde arabe et musulman (IREMAM) (1992-1997); Director of Research emeritus (since 2001).

Teaching assignments at numerous universities and institutes in Europe, Africa and the Middle East: Universities of Rabat, Casablanca, Tunis, Antananarivo, Paris I, Nanterre, Toulouse, Leipzig, Montpellier, Beirut, IHEI Paris and IHEI Geneva. Courses at the Hague Academy of International Law (The Hague, 1993) (Abidjan, 1996) and seminar (2003); courses at the Euromediterranean Academy of International Law, Castellon (Spain, 1999), the International Academy of Constitutional Law (Tunis, 1988 and 2001), and the Institute of International Law and International Relations (Thessaloniki, 2008).

Joint Director of the DEA (postgraduate course) in international law at the University of Aix-Marseille III. Head of a number of research programmes relating to international law and international relations, administrative law, economic law, and constitutional law. Member of the board of advisers of a number of academic institutions and of several academic publications.

Participated in international conferences organized by the United Nations (environment, law of the sea) and in Unesco general conferences. Member of the Board of Trustees and of the Advisory Committee of the United Nations Voluntary Fund for Indigenous Populations. Member of the United Nations International Law Commission (1982-1996) and Chairman of session (1996).

International arbitrator (ICC and *ad hoc* arbitration); Vice-Chairman of the Unesco Appeals Board; Vice-Chairman of the Arbitration Committee of the Franco-Arab Chamber of Commerce. Vice-Chairman of the National Commission for Justice Reform (Algeria).

Member of the Institut de droit international. Founder-member or member of a number of international learned societies.

Consultant for the Comité permanent consultatif maghrébin (1970), for the Algerian Ministries of Foreign Affairs, of Agriculture, of Industry, of Justice and of Higher Education, and for the Algerian Conseil économique et social. Produced expert studies for the Comité permanent consultatif maghrébin, UNITAR (1975), Unesco (1980), UNIDIR (1990), UNDP (1997), IBRD (2002) and the European Union.

Author of the following publications: *L'avènement du parti unique en Afrique noire: l'expérience des Etats d'expression française,* 1969; *Problèmes actuels de l'Unité africaine,* 1973; *Cours d'institutions administratives* and *Cours de contentieux administratif,* 1984; *La formation des normes en droit international du développement,* 1984; "Droits de l'homme et développement dans les constitutions africaines", in *Cours de l'Académie internationale de droit constitutionnel,* 1989; "Le cadre juridique de la coopération Sud-Sud. Quelques expériences ou tentatives d'intégration", in *Recueil des cours,* Hague Academy of International Law, Vol. 241, 1993; *L'état de droit et le monde arabe,* 1996; "Multilatéralisme, droits de l'homme et globalité méditerranéenne", in *Recueils de textes avec une introduction,* Unesco, Vol. III, Tomes 1 and 2 (with N. Bachi), 1998; *La codification du droit international,* 1999; "Droit international et développement", in *Cours euro-méditerranéens, Bancaja de droit international,* 2000; *Où va l'Algérie?,* 2001; and "Droit international et droit constitutionnel: de la non-intervention à la bonne gouvernance", in *Cours de l'Académie internationale de droit constitutionnel,* 2002; La sécurité alimentaire/Food Supply Security, Hague Academy of International Law, 2003.

Author of numerous other articles.

Algerian Medal of Scientific Merit.

Judge *ad hoc* Jean-Pierre COT

(Judge *ad hoc* in the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*)

Born in Geneva, Switzerland, on 23 October 1937.

Licence en droit, Docteur en droit public, Paris Law Faculty (1955-1965); *Agrégé des facultés de droit et des sciences économiques* (1966).

Professor of public and international law and Dean, University of Amiens (1966-1969); Professor of public and international law, University of Paris-I (Panthéon-Sorbonne) (1969-1998); Emeritus Professor, University of Paris-I (since 1999); Associate Research Fellow, Université Libre de Bruxelles (since 1999).

Counsel and Advocate in a number of cases before the International Court of Justice: *Frontier Dispute (Burkina Faso/Republic of Mali), Territorial Dispute (Libyan Arab Jamahiriya/Chad), Kasikili/Sedudu Island (Botswana/Namibia), Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi), Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening)* and *Sovereignty over Pulau Litigan and Pulau Sipadan (Indonesia/Malaysia).*

Counsel and advocate, arbitral tribunal, France/Unesco. President or Member of various arbitral tribunals established within the framework of the EDF and the ICC.

Judge *ad hoc* in the "Grand Prince" case (Belize *v.* France) (2001).

Member (since 2002), International Tribunal for the Law of the Sea.

Member of Parliament for Savoie (1973-1981); Minister, Co-operation and Development (1981-1982); President of the first Conference on Lesser Developed Countries (1981); Executive Board of Unesco (1983-1984); European Parliament (1978-1979 and 1984-1999); President of the Budget Committee of the European Parliament (1984-1989); President of the Socialist Group of the European Parliament (1989-1994); Vice-President of the European Parliament (1997-1999).

Member of the Société française pour le droit international (President since 2004).

Author of numerous books and articles dealing with international law, European law and political science, in particular *La conciliation internationale*, 1968, and co-editor of *La Charte des Nations Unies, commentaire article par article*, 3rd. ed., 2005.

Chevalier de la Légion d'Honneur.

Judge *ad hoc* Budislav VUKAS

(Judge *ad hoc* in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*)

Born in Rijeka/Sušak, Croatia, on 1 January 1938.

LL.B. (1961), LL.M. (1965), Doctor of Law (International Law) (1974), Faculty of Law, University of Zagreb; attended courses at the Hague Academy of International Law (1961 and 1968-1970); participated in the Centre of the Academy for Studies and Research (International Law and International Relations) (1967).

Professor of Public International Law, Faculty of Law, University of Zagreb (Assistant 1963-1970, Lecturer 1970-1974, Assistant Professor 1974-1977, Professor since 1977); lectured at the Universities of Belgrade, Bologna, Boston, Brest, Ljubljana, Maribor, Milan, Osijek, Paris, Parma, Rijeka, Rome, Split, Thessaloniki, Tilburg and Valletta; directed a course on the law of the sea at the Dubrovnik Inter-University Centre (1984-2001); delivered a course on "States, Peoples and Minorities" at the Hague Academy of International Law (1992, *Recueil des cours*, Vol. 231); delivered courses at the Rhodes Academy of Oceans Law and Policy (1999-2001 and 2004); delivered a course on intervention in contemporary international law at the Bancaja Euromediterranean Courses of International Law (Castellón, 2003). Consultant for UNEP, Nairobi (1981 and 1991) and its Co-ordinating Unit for the Mediterranean Action Plan, Athens (1985 and 1990); participated in: Third United Nations

Conference on the Law of the Sea (1975-1982); Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1984-1990 and 1994); International Seabed Authority (1994-1996); Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1994-1996); the Sixth Committee of the United Nations General Assembly (1990, 1991, 1995); Working Group on the United Nations Decade of International Law of the Sixth Committee of the United Nations General Assembly (chairman 1990); CSCE Conference on the Human Dimension, Copenhagen Meeting (1990); CSCE Meeting of Experts on National Minorities, Geneva (1991); World Conference on Human Rights, Vienna (1993); 26th International Conference of the Red Cross and Red Crescent (1995).

Member of the Permanent Court of Arbitration (1989-1991 and since 1999); the International Tribunal for the Law of the Sea (1996-2005), Vice-President (2002-2005); the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization (1985-2006); the Commissions of Inquiry formed under Article 26 of the Constitution of the International Labour Organization to examine the observance by Romania of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (1989-1991) and the observance by Belarus of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (President, 2004); International Labour Organization, high-level direct contact mission to Croatia concerning the protection from asbestos, 2007; the Court of Conciliation and Arbitration within the OSCE (since 1995); and the European Commission for Democracy through Law (1990-1991).

Associate Member (1991-1997) and Member (since 1997) of the Institut de droit international. Member of the Croatian Society of International Law (since 1961); the Argentine Society of International Law (since 2002); the Croatian Academy of Juridical Sciences (established in 2001); the International Council of Environmental Law, Bonn (since 1978); the Scientific Council of the European Institute for Marine Studies, Brest, France (1997-2005); and the Scientific Council of the Institut de droit économique de la mer, Monaco (2000-2006).

Author of numerous books, monographs, articles and papers in various fields of public international law, in particular law of the sea, international environmental law, international protection of human rights and national minorities, including *The Relativity of Treaties* (in Croatian), 1975; *Ethnic Minorities and International Relations* (in Croatian), 1978; *The New Law of the Sea* (ed., in Croatian), 1982, *Essays on the New Law of the Sea*, Vols. I-III (ed.), 1985-1996, *The Legal Regime of Enclosed or Semi-Enclosed Seas. The Particular Case of the Mediterranean* (ed.), 1988, *International Law*, Vol. I (with J. Andrassy and B. Bakotić, in Croatian), 1995; *Law of the Sea: Selected Writings*, 2004; *International*

Law, Vol. III (with J. Andrassy, B. Bakotić and M. Seršić, in Croatian), 2006; Institute of International Law (Rapporteur, with R. Kolb), Humanitarian Assistance, Bruges Resolution 2003, 2006.

Judge *ad hoc* Giorgio GAJA

(Judge *ad hoc* in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)* and in the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*)

Born in Lucerne, Switzerland, on 7 December 1939. Italian nationality.

Degree in law, University of Rome (1960). *Libera docenza* in international law (1968). Honorary Doctor of Law, Dickinson Law School (1985).

Professor of International Law, University of Florence (since 1974), Dean of the Law School (1978-1981).

Lecturer, Hague Academy of International Law (1981). Part-time Professor, European University Institute (1980 and 1984-1985). Visiting Professor, Johns Hopkins University (1977-1978), University of Geneva (1983 and 1985), University of Paris I (1989 and 2000), University of Aix-Marseille III (1992), Graduate Institute of International Studies (2001); University of Michigan School of Law (1992), and Columbia Law School (1996).

Member of the International Law Commission (since 1999). Delegate of the Italian Government to the Vienna Conference on the Law of Treaties between States and International Organizations and between International Organizations (1986).

Counsel to the Italian Government in the *ELSI* case before the International Court of Justice and Judge *ad hoc* in the case concerning *Legality of Use of Force (Serbia and Montenegro v. Italy)*.

Member of the Institut de droit international. Editor of the *Rivista de diritto internazionale.* Member of the Advisory Board of the *Common Market Law Review*, *European Journal of International Law* and *Columbia Journal of European Law.*

Principal publications: *L'esaurimento dei ricorsi interni nel diritto internazionale*, 1967; *La deroga alla giurisdizione italiana*, 1971; *International Commercial Arbitration. The New York Convention* (edited looseleaf volumes), 1978 (updated); *Introduzione al diritto comunitario*, 3rd ed., 2003; "River Pollution in International Law", *Hague Academy of International Law Colloquium, The Protection of the Environment and International Law*, 1975; "Considerazioni sugli effetti delle sentenze di merito della Corte internazionale di giustizia", *Comunicazioni e studi*, Vol. XIV, 1975; "Reservations to Treaties and the Newly Independent States", *Italian Yearbook of International Law*, Vol. I, 1975; "Jus Cogens beyond the Vienna Convention", Hague Academy of International Law, *Recueil des cours*, Vol. 172, 1981; "The European Community's Rights and Obligations under Mixed Agreements", *Mixed Agreements*, 1983;

"Effets directs et réciprocité dans la jurisprudence concernant l'accord entre la Communauté européenne et la Suisse", *Annuaire suisse de droit international*, Vol. XL, 1984; "Instruments for Legal Integration in the European Community – A Review" (with P. Hay and R. D. Rotunda), *Integration through Law: Europe and the American Federal Experience*, 1986, Vol. 1.2; "Principi generali del diritto (diritto internazionale)", *Enciclopedia del diritto*, Vol. XXXV, 1986; "Unruly Treaty Reservations", *International Law at the Time of Its Codification. Essays in Honour of Roberto Ago*, 1987, Vol. I; "Italy", *The Effect of Treaties in Domestic Law*, 1987; "A 'New' Vienna Convention on Treaties between States and International Organizations or between International Organizations: A Critical Commentary", *British Year Book of International Law*, Vol. 58, 1987; "Obligations Erga Omnes, International Crimes and Jus Cogens: A Tentative Analysis of Three Related Concepts", *International Crimes of States*, 1989; "Measures against Terrorist Acts under International Law", *Maritime Terrorism and International Law*, 1990; "Positivism and Dualism in Dionisio Anzilotti", *European Journal of International Law*, Vol. 3, 1992; "Réflexions sur le rôle du Conseil de sécurité dans le nouvel ordre mondial. A propos des rapports entre maintien de la paix et crimes internationaux des Etats", *Revue générale de droit international public*, 1993; "La Convention européenne des droits de l'homme dans les ordres juridiques des Etats membres de la Communauté européenne", *Grundrechtsschutz im europäischen Raum*, 1993; "Beyond the Reasons Stated in Judgments", *Michigan Law Review*, Vol. 92, 1993-1994; "Use of Force Made or Authorized by the United Nations", *The United Nations at Age Fifty. A Legal Perspective*, 1995; "Some Reflections on the European Community's International Responsibility", *The Actions for Damages in Community Law*, 1997; "How Flexible Is Flexibility under the Amsterdam Treaty?", *Common Market Law Review*, Vol. 35, 1998; "Restraints Imposed by European Community Law on the Treaty-Making Power of the Member States", *Dealing with Integration*, Vol. 2, 1998; "Does the European Court of Human Rights Use Its Stated Methods of Interpretation?", *Studi in onore di Francesco Capotorti*, 1999; "Trattati internazionali", *Digesto delle discipline pubblicistiche*, Vol. XV, 1999; "New Instruments and Institutions for Enhancing the Protection of Human Rights in Europe?", *The EU and Human Rights*, 1999; "Expulsion of Aliens: Some Old and New Issues in International Law", *Cursos Euromediterráneos Bancaja de Derecho Internacional*, Vol. III, 1999; "Deliberating on Questions of Jurisdiction in the International Court of Justice", *Liber Amicorum Judge Shigeru Oda*, 2002; "The Long Journey towards Repressing Aggression", *The Rome Statute of the International Criminal Court: A Commentary*, 2002; "Obligations and Rights Erga Omnes: First Report; Second Report", *Yearbook of the Institute of International Law*, Vol. 71-I, 2005; "Relationship of the ICJ with other International Courts and Tribunals", *The Statute of the International Court of Justice: A Commentary*, 2006; "Convention de Vienne de 1969 – Article 38", *Les Conventions de Vienne sur le droit des traités:*

Comments Article by Article, 2006; "General Principles of Law", *Encyclopedia of Public International Law*, 2008.

Judge *ad hoc* Bernard H. OXMAN

(Judge *ad hoc* in the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*)

Born in New York, United States of America, on 2 December 1941.

A.B., Columbia College (1962); J.D., Columbia Law School (1965).

Research Assistant, Parker School of Foreign and Comparative Law, Columbia Law School (1965); Lieutenant, JAGC, United States Naval Reserve (1965-1968); International Law Division, Office of the Judge Advocate General of the Navy, Pentagon (1966-1968); Attorney-Adviser and Assistant Legal Adviser for Oceans, Environment and Scientific Affairs Office of the Legal Adviser, U.S. Department of State, and National Security Council Task Force on Law of the Sea (Vice-Chair) (1968-1977); U.S. Representative and Vice-Chair of the United States delegation at the Third United Nations Conference on the Law of the Sea, and Chair of the English Language Group of the Conference Drafting Committee (1973-1982).

Associate Professor (1977-1980), Professor of Law (since 1980), Richard A. Hausler Professor of Law (since 2008). Associate Dean (1987-1990), University Faculty Senator (since 1996), Director, Ocean and Coastal Law Program (since 1997), University of Miami School of Law; Professorial Lecturer, School of Advanced International Studies, Johns Hopkins University (1976); Visiting Associate Professor, Stanford Law School (1978); Visiting Professor, School of Law, University of California at Berkeley (1982); Visiting Professor, Institut des hautes études internationales, Université Panthéon-Assas (Paris-II) (1994).

Judge *ad hoc* in the case concerning *Land Reclamation by Singapore in and around the Straits of Johor*, International Tribunal for the Law of the Sea (2003); Member, arbitral tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (Malaysia *v.* Singapore) (2003-2005); Adviser to United States Government in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* before the International Court of Justice.

Board of Editors (since 1986), International Decisions Editor (1998-2003), Co-Editor in Chief (since 2003), *American Journal of International Law*, Vice-President, American Society of International Law (since 2007).

Member of the Bar of the District of Columbia, New York; American Bar Association; Executive Council, American Society of International Law (1984-1988); Panel on the Law of Ocean Uses ("Henkin Panel") (1984-1993); Department of State Advisory Committee on International Law (1986-1992); Antarctic Section, Department of State Advisory Committee on Oceans and International Environmental and Scientific

Affairs (1987-1992); Executive Board, Law of the Sea Institute (1983-1986, 1991-2002; Chairman 1993-2002); Council on Foreign Relations (since 1999); American Law Institute (1998-2003).

Author and editor of numerous books and articles, including: "The Preparations for the Law of the Sea Conference", *AJIL*, Vol. 68, 1974 (with John R. Stevenson); "The Third United Nations Conference on the Law of the Sea: The 1974 Caracas Session" and "The 1975 Geneva Session", *AJIL*, Vol. 69, 1975 (with John R. Stevenson); "The 1976 New York Session", *AJIL*, Vol. 71, 1977; "The 1977 New York Session", *AJIL*, Vol. 72, 1978; "The Seventh Session (1978)", *AJIL*, Vol. 73, 1979; "The Eighth Session (1979)", *AJIL*, Vol. 74, 1980; "The Ninth Session (1980)", *AJIL*, Vol. 75, 1981; "The Tenth Session (1981)", *AJIL*, Vol. 76, 1982; "Le régime des navires de guerre dans le cadre de la Convention des Nations Unis sur le droit de la mer", *Annuaire français de droit international*. Vol. 28, 1982, translated as "The Regime of Warships under the United Nations Convention on the Law of the Sea", *Va. J. Int'l. L.*, Vol. 24, 1984. *The 1982 Convention on the Law of the Sea*, 1984 (edited with A. Koers); *Sustainable Development and Preservation of the Oceans: The Challenges of UNCLOS and Agenda 21*, 1997 (edited with Mochtar Kusuma-Atmadja and T. A. Mensah); "La législation américaine sur les ressources minérales solides des fonds océaniques", *Annuaire français de droit international*, Vol. 26, 1980; "The Third United Nations Conference on the Law of the Sea", Chapter 4 of *Handbook on the New Law of the Sea* (R.-J. Dupuy and D. Vignes, eds.), 1991; "Antarctica and the New Law of the Sea", *Cornell J. Int'l L.*, Vol. 19, 1986; "Jurisdiction and the Power to Indicate Provisional Measures", in *The International Court of Justice at a Crossroads* (L. F. Damrosch, ed.), 1987; "Marine Archeology and the International Law of the Sea", *Columbia-VLA Journal of Law and the Arts*, Vol. 12, 1988; "The 1982 Convention and Customary International Law", *Center for Oceans Law and Policy, Proceedings*, Vol. 13, 1989; "The Duty to Respect Generally Accepted International Standards", *NYU. J. Int'l L. & Pol*, Vol. 24, 1992; "The 1994 Agreement and the Convention, in Law of the Sea Forum: The 1994 Agreement on Implementation of the Seabed Provisions of the Convention on the Law of the Sea", *AJIL*, Vol. 88, 1994; "Stability in the Law of the Sea" (with Anatoly Kolodkin), in *Beyond Confrontation, International Law for the Post-Cold War Era* (L. F. Damrosch, G. M. Danilenko and R. Müllerson, eds.), 1995; "Law of the Sea", in *United Nations Legal Order*, Vol. 2 (O. Schachter and C. C. Joyner, eds.), 1995; "Environmental Protection in Archipelagic Seas and International Straits: The Role of the International Maritime Organization", *Int'l J. Marine & Coastal L*, Vol. 10, 1995, *Proceedings of the Law of the Sea Institute*, Vol. 29, 1996; "The Rule of Law and the United Nations Convention on the Law of the Sea", *Eur. J. Int'l L.*, Vol. 7, 1996; "The International Commons, The International Public Interest and New Modes of Law-Making", *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 1996; "Human Rights and the United Nations Convention on the Law of the

Sea", *Politics, Values and Functions, International Law in the 21st Century, Essays in Honor of Professor Louis Henkin*, 1997; "Transit of Straits and Archipelagic Waters by Military Aircraft", *Singapore J. Int'l & Comp. L.*, Vol. 4, 2000; "Complementary Agreements and Compulsory Jurisdiction", *AJIL*, Vol. 95, 2001; "Un Droit de confisquer? L'obligation de prompte mainlevée des navires" (with Vincent Bantz), in *La Mer et son droit, Mélanges offerts à Laurent Lucchini et Jean-Pierre Quéneudec*, 2003; "The International Tribunal for the Law of the Sea", in *Bringing New Law to Ocean Waters*, (D. D. Caron and H. N. Scheiber, eds.), 2004; "The Territorial Temptation", *AJIL*, Vol. 100, 2006.

Awarded the Navy Commendation Medal (1965); Francis Deak Award, American Society of International Law (1978); Provost's Award for Scholarly Activity, University of Miami (1999).

Judge *ad hoc* P. Sreenivasa RAO

(Judge *ad hoc* in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*)

Born 28 April 1942.

Bachelor of Arts, Andhra University (1959). Master of Laws (International Law), Andhra University (1964). Master of Laws (LL.M.), Yale Law School (1968). Doctor of Laws (J.S.D.), Yale Law School (1970). Research Associate, Indian School of International Studies, New Delhi (1965-1967). Recipient of Yale Law School Fellowship (1967-1970). Fellow, Woodrow Wilson International Center for Scholars, Washington, D.C. (1971-1972). Recipient of Rockefeller Foundation Fellowship (1973-1974). Fellow, Marine Policy Programme, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts (1972-1974). Visiting Professor, University of Michigan Law School, Ann Arbor, Michigan (2003). Guest Fellow, Max-Planck-Institut für Ausländisches Öffentliches und Volkerrecht, Heidelberg, Germany (February-April 2006).

Deputy Director, Legal and Treaties Division, Ministry of External Affairs, Government of India (1975-1982). Additional Secretary and the Legal Adviser, Ministry of External Affairs, Government of India, New Delhi (June 2001-May 2002). Legal Adviser, Ministry of External Affairs, Government of India (1985-2002).

Co-Agent and advocate for India in the case concerning the *Aerial Incident of 10 August 1999 (Pakistan* v. *India)* before the International Court of Justice (1999-2000).

Member, official team, Indian delegation to the United Nations General Assembly (1982-2002). Legal Adviser, Permanent Mission of India to the United Nations, New York (1982-1985). Co-ordinator of the Legal Advisers of Foreign Offices of Member States of the United Nations (1992-2002). Leader of Indian delegations to various International Legal Conferences and Bilateral Negotiations between India and other countries.

President of the Asian-African Legal Consultative Organization (1998-1999 and 2001-2002).

Member of the International Law Commission (ILC) (1987-2006). Chairman (1995). Chairman of the Drafting Committee of the ILC (1997). Special Rapporteur for the International Law Commission on the subject of international liability (1997-2006).

Member of the Editorial Board of the *Indian Journal of International Law*. Member of the Editorial Board of the *Journal of Commonwealth Law and Legal Education*. Member, Institut de droit international (since 2005). Associate member of the Institut de droit international (1999-2005). Consultant, WIPO (September 2002-October 2004). Chairman of the Panel Discussion on Disarmament, Centennial Celebrations of the First Hague Peace Conference, held at The Hague, Netherlands (1999). Chairman of the Panel Discussion on Peaceful Settlement of Disputes, Centennial Celebrations of the First Hague Peace Conference held at St. Petersburg, Russia (1999).

Vice-President of the Indian Society of International Law (1991-2003). Life member of the Indian Society of International Law.

Submitted several reports to the International Law Commission on the subject of prevention of and international liability for transboundary harm arising from hazardous activities. Published articles in journals of international law and contributed chapters to books on different subjects of international law.

Judge *ad hoc* Auguste Mampuya KANUNK'A-TSHIABO

(Judge *ad hoc* in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*)

Born in Ndemba, province of Kasai-Occidental, Democratic Republic of the Congo, on 13 February 1943.

Licence in law, University of Nancy 2 (1968). *Diplôme d'études supérieures* (DES) in public law, University of Nancy 2 (1969). DES in political science, University of Nancy 2 (1971). European DES (DESE), Centre européen universitaire, University of Nancy 2 (1970). State doctorate in law, with specialization in public international law, University of Nancy 2 (1972).

Assistant in constitutional law, *chargé d'enseignement* (course in international institutions), University of Rheims (1969-1972). Professor in the law faculty of the University of Kinshasa (since 1972), currently graded *professeur ordinaire*; courses in international law. Visiting Professor at the University of Metz, international law and constitutional law (2001-2003). Visiting Professor (1994-2001) and Professor (since 2002) in the law faculty, University of Nancy, public international law, general theory of law.

Member and Deputy Director of the Centre d'étude et de recherche de droit international et européen (CERDIE) (2001-2004), University of Nancy 2. Researcher and analyst in law and politics.

Author of a number of studies in international law, including works of theoretical and applied research: *Emergence des Etats nouveaux et droit international – quelques tendances théoriques*, 1984; *Désuétude du système de sécurité collective*, 1986; *Conflit armé au Congo-Zaïre, ses circonstances et sa gestion sous l'angle du droit des Nations Unies*, 2001; *Le droit international à l'épreuve du conflict des Grands-Lacs au Congo-Zaïre, guerre – droit – responsabilité et réparations*, 2004; *Espoirs et déception de la quête constitutionnelle congolaise*, 2005: "De la guerre du Golfe à la guerre contre l'Irak: la crise irakienne revisitée", in R. Kherad (ed.), *Les implications de la guerre en Irak. Colloque international du mercredi 12 mai au jeudi 13 mai 2004*, Faculté de droit, d'économie et de gestion de l'université d'Angers, 2005.

Minister of Justice of Zaire (1977). *Chargé de mission*, Ministry for Territorial Administration, with responsibility for decentralization (1981-1983). Legal Adviser to the Board of Directors of Zaire Universities (1982-1984). Political Counsellor to the Presidency of the Republic, then Senior Presidency Official with the rank of Deputy-Director of the Personal Office of the President (1993-1997). Has carried out a number of official foreign missions (United States of America, United Nations, United Kingdom, France, Panama, Mozambique, Romania).

Expert to the Electoral Institute for Southern Africa (EISA).

Chevalier de l'Ordre national des Palmes académiques (France).

Judge *ad hoc* Joe Verhoeven

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*)

Born in Brussels, Belgium, on 12 March 1943.

Doctor of Law (1965) and Agrégé de l'enseignement supérieur (1975).

Professor at the Catholic University of Louvain (UCL) (1975-2000); Law Faculty Course Director for Public International Law and European Community Law. Professor at the St. Louis University Faculties (Brussels). Professor at the University of Paris II Panthéon Assas (since 2000); Director of Master 2, Public International Law; Director of the Institut des hautes études internationales (IHEI) (with Ch. Leben).

Member of the Research Council of the Catholic University of Louvain (1994-1999); Member (1995-2004) and President (since 1998) of the Commission des sciences juridiques du Fonds national de la recherche scientifique.

Attendance at numerous conferences and teaching abroad (notably: Aix-Marseille, Bordeaux, Hitotsubashi University, Institut universitaire des hautes études internationales (Geneva), New York University, Ottawa, Paris I, Paris II, University of California (Los Angeles)); Visiting Scholar at Stanford Law School (1998).

Teaching at the Hague Academy of International Law (Private International Law Section) in 1985; invited to give the 2002 general course on public international law.

Member of various learned societies (Member-elect of the Council of the French Society for International Law); Member of the editorial board of various law periodicals. Director of the *Annuaire français de droit international* (since 2002).

Member of the Permanent Court of Arbitration; expert adviser to the Centre for the Prevention of Conflict in the Organization for Security and Co-operation in Europe (OSCE).

Participated – as counsel or, in one case, as arbitrator – in certain international arbitrations, *ad hoc* or ICC; State's counsel for Iran in several cases before the Iran-United States Claims Tribunal; various consultative positions.

Member (since 1991) of the Institute of International Law (elected Associate at Helsinki in 1985); Rapporteur on the draft resolution on *Immunities from Jurisdiction and Execution of Heads of State and Government in International Law*, adopted at Vancouver (2001); Secretary-General of the Institute (since 2003).

Winner of the Charles De Trooz Prize (1965) (for an essay on Luise Rinser), the Henri Rolin Prize (1976) (for a work on international recognition) and the Fondation E. de Laveleye Prize 1993-1998 (Royal Academy of Belgium).

Author of the following monographs: *La reconnaissance internationale dans la pratique contemporaine. Les relations publiques internationales*, 1975. "Les nullités du droit des gens", *Droit international*, Institut des hautes études internationales de Paris, 1981; "Relations internationales de droit privé en l'absence de reconnaissance d'un Etat, d'un gouvernement ou d'une situation", *Recueil des cours*, Hague Academy of International Law, Vol. 192, 1985; *The Antarctic Environment and International Law* (published in collaboration with Ph. Sands), 1992; *Droit de la Communauté européenne*, 1996, 2nd ed., 2000; *Public International Law*, 2000; *Le droit international des immunités: contestation ou consolidation?* (ed.), 2004; and over 150 legal articles, commentaries or essays in various Belgian or foreign publications or collective works including: "Contrats entre Etats et ressortissants d'autres Etats", *Le contrat économique international, Stabilité et évolution, VII*^{es} *Journées d'études juridiques Jean Dabin*, 1975; "L'Etat et l'ordre juridique international. Remarques", *RGDIP*, 1978; "Droit international des contrats et droit des gens", *RBDI*, 1978-1979; "La notion d'applicabilité directe du droit international", *RBDI*, 1980; "Sanctions internationales et communautés européennes. A propos de l'affaire des îles Falkland (Malvinas)", *Cah. dr. europ.*, 1984; "Sur les conflits de lois en droit des gens", *Journal du droit international*, 1984; "Le droit, le juge et la violence. Les arrêts Nicaragua v. United States", *Rev. gén. dr. int. public*, 1987; "Sur la Palestine en droit international privé, note sous AG Neumünster", *Revue critique de droit international privé*, 1988; "Etats alliés ou Nations Unies.

L'ONU face au conflit entre l'Irak et le Koweit", *AFDI*, 1990; "Sur la récupération à l'étranger des sommes détournées par d'anciens chefs d'Etat", *Mélanges Lalive, Helbing et Lichtenhahn, Bâle-Francfort*, 1993; "Les citoyens de l'Europe", *Annales dr. Louvain*, 1993; "Sovereign States: A Collectivity or a Community?", *Hitotsubashi Journal of Law and Politics*, 1994; "La reconnaissance internationale: déclin ou renouveau?", *AFDI*, 1993; "Human Rights, Intervention and Universality", *Hungdah Chiu et al., Proceedings of the International Law Association (ILA), First Asian-Pacific Regional Conference*, 1995; "Les principales étapes de la protection internationale des minorités", *Rev. trim. Dr. H.*, 1997; "L'application ou la prise en considération des directives communautaires en droit belge, note sous Cass., 2 Dec. 1996", *Rev. crit. j. b.*, 1998: "La Communauté européenne et la sanction internationale de la démocratie et des droits de l'homme", *Liber Amicorum Mohammed Bedjaoui*, 1999; "Jus Cogens and Reservation or 'Counter-Reservations' to the Jurisdiction of the International Court of Justice", in (K. Wellens, ed.), *International Law: Theory and Practice, Essays in Honour of E. Suy*, 1998; "Mr. Pinochet, la coutume internationale et la compétence universelle, note sous Civ. Bruxelles, 6 Nov. 1998", *JT*, 1999. "Vers un ordre repressif universal? Quelques observations", *AFDI*, 1999; "Les conceptions et les implications du temps en droit international", SFDI, *Le droit international et le temps*, 2001; "Les immunités de jurisdiction et d'exécution du chef d'Etat et du gouvernement en droit international", *Ann, IDI*, Vol. 69; "Patrimoine culturel et droit international", *Cursos Euromediteráneas Bancaja de derecho international*, Vol. V, 2001; "Les 'étirements' de la légitime défense", *AFDI*, 2002; *Article 21 of the Rome Statute and the Ambiguities of Applicable Law*, 2002; *Pour une critique de la compétence universelle*, 2004; "Jura Novit Curia et le juge international", *Essays in Honour of Christian Tomuschat*, 2006; "Considérations sur ce qui est commun (cours général de droit international public)", Hague Academy of International Law, *Collected Courses*, Vol. 334, 2008.

Judge *ad hoc* Raúl Emilio Vinuesa

(Judge *ad hoc* in the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*)

Born 30 March 1943.

Diploma in International Law, Jesus College Fellow, University of Cambridge, Faculty of Law (1976); Diploma in European Studies, Europa Instituut, University of Amsterdam (1974); Master in Law, LL.M., Harvard Law School, Harvard University (1970); Master of Arts, The Fletcher School of Law and Diplomacy, Tufts University (1968); Abogacía (Law Degree), Facultad de Derecho y Ciencias Sociales, Universidad de Buenos Aires (1966).

Full Professor of Public International Law and Full Professor of Human Rights (since 1984), Assistant Professor (1972-1982), Deputy

Director of Instituto de Derecho Internacional (1979-1982), Facultad de Derecho y Ciencias Sociales, Universidad de Buenos Aires (UBA); Full Professor of International Law (since 1972), Chairman of the Academic Advisory Board (1987-1990), National Institute for Foreign Service (ISEN), Ministry of Foreign Affairs of Argentina; Full Professor of Law of the Sea and International Humanitarian Law (since 1978) at the Escuela de Guerra Naval, Argentine Navy; Full Professor of International Law (1984-1990), Director of the International Relations and Political Science School (1990-1991), Facultad de Derecho, Universidad de Belgrano; Visiting Professor on International Law (Public and Private) (1995-2005), Universidad Torcuato Di Tella; Visiting Professor on International Law (Public and Private) (since 1995) at the Universidad de San Andrés; Member of the Advisory Council, International Law Department, Faculty of Law of the Universidad Austral; Visiting Professor on International Organizations (since 1994) at the Facultad Latino Americana de Ciencias Sociales (FLACSO); President (since 1992) of the Centro de Estudios Internacionales de Buenos Aires (CEIBA).

Lawyer, Buenos Aires Bar, Vinuesa & Associates (since 1990), legal counsel on Foreign Litigation and Arbitration at the International Chamber of Commerce, at *ad hoc* arbitration tribunals and at the International Centre for the Settlement of Investment Disputes (ICSID) *(Emilio A. Maffezini* v. *Kingdom of Spain, Sociedad Anonima Eduardo Vieira* v. *Republic of Chile)*; President of the Mercosur *ad hoc* Arbitration Tribunal, case concerning *Discriminatory Measures and Restrictions to the Commerce of Tobacco between the Oriental Republic of Uruguay and the Federative Republic of Brazil* (March 2005); Member of the Group of Experts on Settlement of Disputes between States and Investors, Secretariat of the United Nations Conference on Commerce and Development (UNCTAD), Geneva (since October 2004); President of the Arbitral Tribunal in the case *M.C.I. Power Group, L.C. New Turbine, Inc.* v. *The Republic of Ecuador* (since September 2003); Member of the List of Arbitrators appointed by the Permanent Commission of the International Movement of the Red Cross (since January 2001); Member of the Panel of Arbitrators, International Centre for Settlement of Investment Disputes, World Bank, Washington; Former Adviser to the Ministry of Foreign Affairs of Argentina on International Commercial Arbitration and Foreign Litigation (October 1997-March 2001); Member of the Committee on Environmental Law, International Union for the Conservation of Nature (IUCN) (since 1993); Member of the Group of Experts of the International Committee of the Red Cross on Environmental Law and Humanitarian Law (1992-1994), on Maritime Warfare (1993-1995) and on Customary Rules of International Humanitarian Law (1996-1999); Member of the National Committee for the United Nations Decade of International Law, Ministry of Foreign Affairs (1993-2001); Former Legal Adviser on International Human Rights issues to the Ministry of Justice, Dirección General de Asuntos

Institucionales (1993-1996); Member of the National Committee on Human Rights, Ministry of Foreign Affairs of Argentina, responsible for the drafting of guidelines on Human Rights Foreign Policy, Member of the Argentine Delegation to the United Nations Conference on Human Rights in Vienna (1993); Former Adviser to the Ministry of Foreign Affairs (1984-1989) with responsibilities in dealing with diplomatic protection issues and foreign litigation as council of the Argentine Government at foreign courts; Secretary Commissioner at the Comisión Nacional de Límites Inter-Provinciales (National Commission on Provincial Boundaries), Ministry of Interior of Argentina (1978-1983) with responsibilities on the drafting of legal proposals for the settlement of boundary disputes.

Member of the Instituto de Derecho Internacional of the National Academy of Law and Social Sciences of the Republic of Argentina (since August 2004); Associate Member of the Institut de droit international, elected at the Berlin Session of the Institut (August 1999); Full Member of the Instituto Hispano-Luso-Americano de Derecho Internacional, elected at the Manila Session; Elected as Director of the Instituto in Quito (since 2004); Member of the Board of the Asociación Argentina de Derecho Comparado (Argentine Association of Comparative Law); Full Member of the Asociación Argentina de Derecho Internacional (Argentine International Law Association); Member of the Board of the Argentine Branch of the International Law Association; Vice-President of the International Law Group of the Instituto de Estudios Legislativos de la Federación de Colegios de Abogados (Federal Bar Association of Argentina); President of the Centro de Estudios Internacionales de Buenos Aires; Member of the Harvard Law Association, the American Society of International Law, the Inter-American Bar Association and the British Institute of International and Comparative Law.

Author of numerous publications on international law. Participated in numerous conferences and seminars on international law.

Judge *ad hoc* James L. KATEKA

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*)

Born on 25 April 1945 in Karagwe District, Tanzania.

Bachelor of Laws Degree with Honours, University College Dar es Salaam of the University of East Africa (1970); Master of Laws (specializing in international law), King's College, University of London (1974).

Judge at the International Tribunal for the Law of the Sea (ITLOS) (since 2005); Member of the United Nations International Law Commission (1997-2006); Vice Chairman (2002), Chairman of the Drafting Committee (2003); Partner in the law firm of South Law Chambers, Dar es Salaam. Member of the American Society of International Law (since 2005); Member of the British Institute of International and Comparative Law (since 2006).

Legal Officer in the Protocol and Treaties Division (1970-1973), Ministry of Foreign Affairs of Tanzania; Head of the Legal Section (1973-1975); Legal Adviser, Tanzania Mission to the United Nations in New York (1976-1980); Head, Treaties Section of the MFA (1980-1983); Director (Legal Adviser), Legal Department of the MFA (1983-1989); Ambassador of Tanzania to the Federal Republic of Germany (1989-1994) with concurrent accreditation to Austria, the Holy See, Poland, Romania and Switzerland; Ambassador to the Russian Federation (1994-1998); Ambassador to Sweden (1998-2005) with concurrent accreditation to the other Nordic countries of Denmark, Finland, Norway and Iceland and to the Baltic Republics of Estonia, Latvia and Lithuania; Dean of the diplomatic corps, Stockholm (2003-2005); Dean of Tanzania's Ambassadors (2004-2005).

Deliberations, United Nations Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction (1971-1973); delegate to the Third United Nations Conference on the Law of the Sea (1973-1982); representative to the Sixth (Legal) Committee of the United Nations General Assembly (1976-1988 and 1996); delegate to the United Nations Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea in Kingston, Jamaica (1983-1994); delegate to the Stockholm Conference on the Human Environment (1972), London Conference on the Anti-Dumping Convention (1972), IMO Conference that adopted the Marine Pollution Convention (1973); head of delegation to the Diplomatic Conference on Territorial Asylum in Geneva (1977); delegate, Conference that adopted the Vienna Convention on Succession of States in Respect of Treaties (1977-1978); delegate to the Nairobi Conference that adopted the Convention for the Protection, Management and Development of the Marine Environment of the Eastern African Region (1985); Member, UNEP Group of Experts on Environmental Dispute Avoidance and Settlement (1998-1999); participant, UNEP Meeting of Experts on Liability and Compensation for Environmental Damage, Geneva (2002); delegate, Commonwealth Heads of Government Meeting, New Delhi, (1983); United Nations Conference on Women, Nairobi (1985); 25th session of the Asian-African Legal Consultative Committee, Arusha, (1985); Acting Chairman, (1976) UN Sanctions Committee on Southern Rhodesia under Security Council resolution 253 (1968); Rapporteur, *Ad hoc* Committee on International Terrorism (1977-1979); representative, Special Committee on the Charter, UNCITRAL, the *ad hoc* Committee on the Indian Ocean as a zone of peace, the *ad hoc* committee against the taking of hostages, the non-use of force committee (1976-1980); delegate to the first and second special Sessions of the United Nations General Assembly on Disarmament (1978 and 1982 respectively).

Numerous articles for various legal publications and lectures on international law covering the law of the sea, environmental law, human rights and the United Nations International Law Commission.

Publications include: "Diplomatic Protection", *The Protection of the Individual in International Law – Essays in Honour of John Dugard*, Thomas Skouteris and Annemarieke Vermeer-Kunzli (eds.); "Landlocked Developing Countries and the Law of the Sea", *International Law between Universalism and Fragmentation-Festschrift Gerhard Hafner*, Isabelle Buffard, James Crawford, Alain Pellet and Stephen Wittich (eds.); "The Forty-ninth Session of the United Nations International Law Commission", *African Yearbook of International Law (AYIL)*, Vol. 5, 1997; "The Fiftieth Session of the ILC", *AYIL*, Vol. 6, 1998; "The Fifty-first Session of the ILC", *AYIL*, Vol. 7, 1999; "The Fifty-second Session of the ILC", *AYIL*, Vol. 8, 2000; "The Fifty-third Session of the ILC", *AYIL*, Vol. 9, 2001; "The Tanzania National Report", in *Legal Aspects of Protecting and Managing the Marine and Coastal Environment of the Eastern African Region, UNEP Regional Seas Reports*, No. 49, 1984; Paper presented at the International Seminar on the Experience of Different Countries in the Implementation of International Standards on Human Rights, Geneva, 20 June-1 July 1983, published in UN doc. HR/GENEVA/1983/WP.23; "Africa and the law of the sea", paper presented at UNCLOS, 1992; "Tanzania and the Environment Problem", paper presented at a workshop on Tanzania's foreign policy in May 1994 in Dar es Salaam.

Awarded the Papal Honour of the Grand Cross with the Star of the Order of Pius the Ninth in 1993 by Pope John Paul II.

Judge *ad hoc* Milenko KREĆA

(Judge *ad hoc* in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*)

Born in Sisak, Croatia, on 19 August 1947, Serbian national.

Received M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School of Law, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law. Head of Chair of International Law and International Relations at the Faculty of Law in Belgrade (since 1997); Director of the Institute for International Politics and Economics (1997-2000); President of the Council of the Institute for Comparative Law (1997-2000); Member of the Federal Commission for Harmonization of FRY Law with the Laws of EU, EC and WTO (since 1998); Member of the Board of the Faculty of Law in Belgrade (1998-2000); President of the Council of the Faculty of Law (since 2006).

Arbitrator of the Permanent Arbitration at the Commercial Chamber of the Republic of Serbia (since 2000); President of the Scientific Council for Legal and Political Sciences at Belgrade University (1999-2004).

President of the International Criminal Law Association (since 2002). Director of the Institute for Legal Studies, Faculty of Law, Belgrade.

Was on several occasions legal adviser to the Ministry of Foreign Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia. Judge *ad hoc* in a few cases before the European Court of Human Rights.

Judge *ad hoc* before the International Court of Justice in the following cases: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro), Legality of the Use of Force (Serbia and Montenegro* v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) (Serbia and Montenegro* v. *Spain) (Serbia and Montenegro* v. *United Kingdom) (Serbia and Montenegro* v. *United States of America).* Judge *ad hoc* in a number of cases before the European Court of Human Rights.

Founder of the *Review of EU Legislation* (Belgrade, Institute for International Politics and Economics).

Principal publications: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993, 1996, 1997, 1999, 2001, 2003, 2004; *Sources of International Public Law*, 1979, 1985, 1999, 2004; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law*, I-III (co-author), 1988-1989; *Law of the Sea – Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in International Law*, 1991. Author of over 80 articles and papers in Serbian and other languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law, Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992; "A Few Remarks on Theoretical Basis of the New Law of the Sea", *Liber Amicorum Judge Shigeru Oda*.

Judge *ad hoc* Antônio Augusto Cançado Trindade

(Judge *ad hoc* in the case concerning the *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*)

Born in Belo Horizonte, Brazil, on 17 September 1947.

Ph.D. in International Law (1977), University of Cambridge, United Kingdom, with thesis on "Developments in the Rule of Exhaustion of Local Remedies in International Law".

LL.M. in International Law, University of Cambridge (1973); LL.B. in Law, Federal University of Minas Gerais, Brazil (First Prize in Civil Law, 1969).

Professor (Full Professor/*Professeur Titulaire*) of Public International Law at the University of Brasilia (since 1978) and at the Diplomatic Academy Rio Branco of Brazil (since 1979).

Lecturer at the Hague Academy of International Law, 2005 session (general course published in Vols. 316 and 317 (2005) of the Hague Academy's *Recueil des cours*); Lecturer at the Hague Academy of International Law, 1987 session (course published in Vol. 202 (1987) of the Hague Academy's *Recueil des cours*); Lecturer at the twentieth external session of the Hague Academy of International Law (Bogotá, 1989); Lecturer at the twenty-first external session of the Hague Academy of International Law (Santiago de Chile, 1991); Lecturer at the twenty-fourth external session of the Hague Academy of International Law (San José, Costa Rica, 1995); Lecturer at the twenty-seventh external session of the Hague Academy of International Law (Montevideo, 1998); Lecturer at the thirtieth external session of the Hague Academy of International Law (Mexico City, 2002); Lecturer at the thirty-third external session of the Hague Academy of International Law (Lima, 2005); Lecturer at the thirty-sixth external session of the Hague Academy of International Law (Santo Domingo, Dominican Republic, 2008); Co-sponsor, as Judge of the Inter-American Law Court of Human Rights and Executive Director of the Inter-American Institute of Human Rights, of the twenty-fourth external session of the Hague Academy of International Law (San José, Costa Rica, 1995). Participant in the 1974 session of the Research Centre of the Hague Academy of International Law (certificate awarded).

Lecturer at the annual courses of International Law organized by the OAS Inter-American Juridical Committee (Rio de Janeiro, sessions of 1981, 1982, 1985, 1990-1992, 1995-1997 and 2000-2008).

Lecturer at the annual study sessions of the International Institute of Human Rights (Strasbourg, France, sessions of 1988, 1991 and 1993-2008).

Lecturer at the Interdisciplinary Courses of the Inter-American Institute of Human Rights (sessions of 1986, 1989, 1991-2001, 2004 and 2007); academic co-ordinator of specialized courses and seminars of the Inter-American Institute of Human Rights, in Costa Rica and Brazil; lecturer at the Inter-American Institute of Human Rights in several countries.

Visiting Professor ("Cátedra Simón Bolivar") at the University of Los Andes (Mérida, Venezuela, 1981 and 1982); Visiting Professor at the *Institut des hautes études internationales*, University Panthéon-Sorbonne (Paris-II), 1988-1989 sessions; Visiting Professor at the University of Ferrara, Italy (1983 and 1986); Visiting Professor (elected by the Congregation) of the University of Lisbon (1993); Visiting Professor at Columbia University (1998); Visiting Professor at Tulane Law School, Tulane University, New Orleans (1999); Visiting Professor at the Universities of Seville and Deusto (Bilbao, Spain) (2002); Visiting Professor at Washington College of Law, American University (May/June 2003, 2004, 2006); Visiting Professor at the Autonomous University of Madrid/Foundation Ortega y Gasset.

Yorke Prize, awarded by the Faculty of Law of the University of Cambridge, United Kingdom (1978), for the author's Ph.D. thesis in International Law (best Ph.D. thesis presented in the period 1977-1978); Honours, International Institute of Human Rights, Strasbourg, France (1988); Honours, Inter-American Institute of Human Rights, San José, Costa Rica (1997); Honours, State University of Rio de Janeiro, Brazil (1999); University of Brasilia, Brazil (1999); Federal University of Minas Gerais, Brazil (2002); *Professor honoris causa*, Universidad Nacional Mayor de San Marcos, Lima/Peru (2001); *Doctor honoris causa*, Central University of Chile, Santiago, Chile (2003); *Doctor honoris causa*, Catholic University of Peru, Lima, Peru (2003); Prize "Isidro Fabela", National Autonomous University of Mexico (UNAM), Mexico City, Mexico (2003); *Doctor honoris causa*, American University of Paraguay, Asunción, Paraguay, (2004); Prize "Pontes de Miranda", Brazilian Academy of Judicial Letters (2004); *Doctor honoris causa*, National University of La Plata, La Plata, Argentina (2005); Honorary Visiting Professor, University of Rosario, Bogotá, Colombia (2005); Annual Award of 2007 of the American Society of International Law (ASIL), Washington D.C., (2007), "W. Friedmann Memorial Award", Columbia University, New York, (2008).

President of the Inter-American Court of Human Rights (elected 1999, re-elected 2002); Vice-President of the Inter-American Court of Human Rights (elected 1997); Judge of the Inter-American Court of Human Rights (elected 1995, re-elected by acclamation 2000); former Judge *ad hoc* of the Inter-American Court of Human Rights (two cases, 1990-1994).

Executive Director of the Inter-American Institute of Human Rights (elected unanimously, 1994-1996). Member of the Board of Directors of the Inter-American Institute of Human Rights (elected 1988-1991, re-elected unanimously 1991-1994, re-elected unanimously 1996 at the end of term as Executive Director); External Legal Adviser to the Inter-American Institute of Human Rights (1991-1994); delegate of the Inter-American Institute of Human Rights to the regional meeting of Latin America and the Caribbean preparatory to the United Nations World Conference on Human Rights (1993) and to other "satellite-meetings" for the Second United Nations World Conference on Human Rights (Vienna, 1993); Head of the Delegation of the Inter-American Institute of Human Rights to the Central American Conference on Peace and Development (Tegucigalpa, 1994).

Legal Adviser to the Ministry of External Relations of Brazil (1985-1990); Deputy Head of the Delegation of Brazil to the United Nations Conference on the Law of Treaties between States and International Organizations (Vienna, 1986); Delegate of Brazil to the Second World

Conference on Human Rights (Vienna, 1993); Special Envoy of the Minister of External Relations of Brazil to Chile for Questions Pertaining to Human Rights (Santiago, 1993-1994); Delegate of Brazil to the twenty-fourth General Assembly of OAS (Belém do Pará, Brazil, 1994); Delegate of Brazil to the fourteenth General Assembly of OAS (Brasilia, 1984); Delegate of Brazil to the Conferences on the Latin American Parliament (Cartagena and Lima, 1987); Delegate of Brazil to the Joint Meeting of the Contadora Group and the Group of Support (Cartagena, 1985); Head of the Delegation of Brazil to the United Nations Conference on the Code of Conduct for Transfer of Technology (Geneva, 1983); Legal Adviser to the Delegation of Brazil to the Sixth Conference of the Brazilian-French Mixed Commission of Demarcation of Limits (1981).

Expert of the United Nations and Lecturer in the United Nations Global Consultation on the right to development as a human right (Geneva, 1990); Member of the Group of Senior Legal Advisers to UNEP (Nairobi, 1990-1992), participant of the meetings in Malta (1990), Nairobi (January and September 1991), Geneva (March and July 1991), Beijing (1991), Rio de Janeiro (1991-1992), Nairobi (September 1992); Member of the Advisory Committee of Experts in International Environmental Law of the United Nations University (1984-1987), participant at the meetings at The Hague (1984), Rio de Janeiro (1985), Strasbourg (1986), Goa, India (1987).

UNDP Adviser for advisory project on modernization of the Foreign Offices of Latin American countries (Chile, Brazil, Dominican Republic, Mexico, Guatemala, (1988)); UNEP Adviser for the elaboration of environmental legislation project of Sao Tome and Principe (1992); Member of the Group of Jurists of the *Comisión Sudamericana de Paz*, entrusted with the elaboration of the first draft of the Treaty of Zone of Peace in South America (Brasilia, August 1989, and Montevideo, June 1990).

Member of the Commission of Jurists of OAS for Nicaragua (1993-1994). Member of the Commission of Senior Legal Advisers to the Office of the United Nations High Commissioner for Refugees (UNHCR) for the final evaluation of the process of the International Conference on Central American Refugees (Mexico City, 1994); Legal Adviser to the Council of Europe in the case concerning the 1995 Minsk Convention on Human Rights (1995).

Member of the Commission of Advisers to Unesco on the Right to Peace as a Human Right (participant at meetings in Las Palmas, Spain, February 1997, and Oslo, Norway, June 1997). Research supervisor for the project on humanitarian law and customary law, International Committee of the Red Cross (1997).

Arbitrator, International Centre for Settlement of Investment Disputes (2006-2008).

Director of the *Brazilian Journal of International Law* (published every semester; Director since 1985); Co-director of the *Brazilian Journal of Human Rights* (since 2001); Brazilian editor of *International Legal*

Materials (Washington/American Society of International Law, since 1981); Member of the *Arquivos* Review Editorial Council, Ministry of Justice of Brazil (1987-2002); Member of the Editorial Board of the *Brazilian Journal of International Politics* (since 1993); Member of the Editorial Board of "International Newsletter" of the University of São Paulo, Brazil (since 1997).

Member of the Curatorium of the Hague Academy of International Law (since 2004); Member of the Institute of International Law (since 1997); Elected Member of the Committee on the Enforcement of Human Rights Law of the International Law Association (London); Elected Member of the International Council of Environmental Law (Bonn).

Member of the Boards of Directors (elected and re-elected) of the Inter-American Institute of Human Rights and of the International Institute of Human Rights (San José and Strasbourg); Elected Member of the International Institute of Humanitarian Law (San Remo).

Permanent Member of the Brazilian Society of International Law; Associate Member of the Asociación Argentina de Derecho Internacional; Elected Member of the Societé française pour le droit international; Permanent Member (elected, 1994), and former rapporteur (1996), of the Instituto Hispano-Luso-Americano de Derecho Internacional; Member of the American Society of International Law; Member of the British Institute of International and Comparative Law and of the Indian Society of International Law; Member of the Association des Anciens Auditeurs of the Hague Academy of International Law.

Member of the Advisory Board of the Asia-Pacific Council on Human Rights Studies (New Delhi, 1998); Member of the International Council on Human Rights Policy (London, 1997); Member of the Steering Committee of the Project on International Courts and Tribunals (New York/The Hague, 1998-2001).

Honorary President of the Brazilian Institute of Human Rights; Member of the Brazilian Bar Association; "Professor Homenageado" (elected by the students) of the University of Brasilia, "Professor Homenageado" (elected by the students) of the Catholic University of Minas Gerais, Brazil (2002) and of the Tuiuti University of Curitiba, Brazil (2002); "Professor Homenageado" of the Diplomatic Academy Rio Branco (1999 and 2006).

Member of the *Academia Mineira de Letras Jurídicas*; Member of the *Academia Brasileira de Letras Juridicas*.

Author of 30 books and around 500 articles and monographs on international law, published in numerous countries.

Judge *ad hoc* Abdulqawi Ahmed YUSUF

(Judge *ad hoc* in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*)

Born in Eyl, Somalia, 12 September 1948.

Docteur ès sciences politiques (International Law), Graduate Institute of International Studies, University of Geneva (1980). *Laurea di Dottore in Giurisprudenza* (Dr. Juris), Faculty of Law, Somali National University (1973). Certificate, Centre for Studies and Research in International Law, Hague Academy of International Law (1974). Post-graduate studies in International Law and Relations, University of Florence, Italy (1976-1977).

Legal Adviser and Director of the Office of International Standards and Legal Affairs, Unesco (since March 2001). Assistant Director-General and Special Adviser on African Affairs, UNIDO (March 1998-February 2001); Acting Managing Director, Country Programmes and Funds Mobilization Division (August 1997-March 1998); Legal Adviser and Director of the Legal Service (August 1994-March 1998). Representative and Head, New York Office of UNCTAD (July 1992-July 1994); Senior Liaison Officer, United Nations Programme of Action for the Least Developed Countries, New York (1992-1994); Head, Legal Policies Section, Trade and Technology Programme, Geneva (July 1988-June 1992); Legal Officer, Technology Division, Geneva (December 1981-June 1988); Liaison Officer in the Office of the Special Representative of the Secretary-General and Adviser to the Commander of the United Nations peace-keeping forces, UNTAG, Namibia (May-June 1989); Deputy Regional Director and Electoral Supervisor (Ovambo, Namibia) (August-December 1989).

Somali representative to the Third United Nations Conference on the Law of the Sea (1975-1981). Somali delegate to the Afro-Asian Legal Consultative Committee (1975 and 1976). Member, Somali delegation to OAU Summit conferences (1974).

Expert Adviser, UNCTAD negotiations on a Draft International Code of Conduct on the Transfer of Technology (1982-1985). Expert Adviser at the United Nations negotiations on a Convention on Biological Diversity (1990-1991). Expert Adviser and UNCTAD Representative at the GATT Uruguay Round Trade Negotiations on TRIPS (1989-1991). Legal Adviser to the Industrial Development Board and General Conference of UNIDO (1994-1998). Legal Adviser to the International Centre for Genetic Engineering and Biotechnology (Trieste, Italy) (1994-1997). Legal Adviser to the Executive Board and General Conference of Unesco (since 2001). Legal Adviser to the Unesco Intergovernmental Oceanographic Committee and to the World Heritage Committee (since 2001). Legal Adviser to Unesco negotiations on the following conventions: Convention on the Protection of the Underwater Cultural Heritage, Convention for the Safeguarding of Intangible Cultural Heritage, International Convention against Doping in Sport, Convention on the Protection and Promotion of the Diversity of Cultural Expression (2001-2006).

Lecturer, International Law, Faculty of Law, Somali National University (1974-1980) and Chairman, Public Law Department (1976-1978). Assistant Professor, Faculté de Droit, Université de Genève (1981-1983).

Visiting lecturer on public international law and international economic law at the following universities and academic institutions: University of Siena, Italy, March and April 1984; Institut universitaire d'études du développement, Geneva (Switzerland), February and March 1984; University of Florence (Italy), March and April 1985; University of Milan-Bocconi (Italy), April 1990; International Development Law Institute, Rome (Italy), May 1990, May 1991, May 1992 and October 1995; University of Turin (Italy), June 1991 and June 1992; UNITAR Fellowship Programme in International Law, the Hague Academy of International Law (Netherlands), 1993, 1994, 1996 and 1999; Thessaloniki Institute of Public International Law and International Relations, 2004.

Founder and General Editor, *African Yearbook of International Law/Annuaire Africain de droit international*. Member of the Academic Council of the Doctoral School of International Law, University of Paris I (Sorbonne), France. Member of the International Curatorium of the Thessaloniki Institute of Public International Law and International Relations, Greece. Member, Editorial Advisory Board, *Asian Yearbook of International Law*. Barrister, Supreme Court of Somalia, since 1974.

Member, Institute of International Law (Institut de droit international), Geneva. Founding Member, African Association of International Law. Founding Member and Member Governing Board, African Foundation for International Law. Member, Commission on Environmental Law, IUCN (World Conservation Union). Member, Société française de droit international.

Author of a number of books and numerous articles dealing with various aspects of international law, including the following: Books: *Legal Aspects of Trade Preferences for Developing States: A Study in the Influence of Development Needs on the Evolution of International Law*, 1982; *Intellectual Property and International Trade: The TRIPS Agreement* (ed. with C. Correa), first edition, 1998, second edition, 2007; *International Technology Transfer: The Origin and Aftermath of the Draft UN Code of Conduct* (ed. with S. J. Patel and P. Roffe), 2000; *Standard-setting in Unesco/L'action normative à l'Unesco* (ed.), 2007, English and French editions; *The Legal and Institutional Framework of the African Union/Le cadre juridique et institutionnel de l'Union Africaine* (ed.) (forthcoming 2008), English and French editions; *African Yearbook of International Law/Annuaire Africain de droit international* (Founder and General Editor), Vols. I-XIV, English and French editions.

Articles and Special Papers: "The legal status of mercenaries in the law of armed conflict", in A. Cassese (ed.), *The New Humanitarian Law of Armed Conflicts*, 1979; "Towards a new legal framework for marine research: Coastal state consent and international co-ordination", *Virginia Journal of International Law*, Vol. 19, No. 2, 1979; "Preferential treatment as a dimension of the right to development" in R.-J. Dupuy (ed.), *The Right to Development at the International Level*, Hague Academy of International Law, 1980; "Differential and More Favourable Treatment of Developing Countries in International Trade: The GATT Enabling

Clause", *Journal of World Trade Law*, 1981; "L'élaboration d'un code international de conduite pour le transfert de technologie: bilan et perspectives". *Revue générale de droit international public*, No. 4, 1984; "The legal framework for stable, remunerative and equitable commodity prices in international trade", in D. Dicke and E.-U. Petersmann (eds.), *Foreign Trade in the Present and a New International Economic Order*, 1988; "Trade-related aspects of intellectual property rights", *Uruguay Round, Papers on Selected Issues*, 1989; "Transfer of technology" in M. Bedjaoui (ed.), *International Law: Achievements and Prospects*, 1992; "Intellectual Property Protection and International Trade: The Exhaustion of Rights Revisited", *World Competition*, Vol. 16, No. 1, 1992 (in collaboration); "Technology and Genetic Resources in the Biodiversity Convention: Is Mutually Beneficial Access Still Possible?" in *Biodiplomacy: Genetic Resources and International Relations* (V. Sanchez and C. Juma, eds.), 1994; "International Law and Sustainable Development: The Convention on Biological Diversity", *African Yearbook of International Law*, Vol. II, 1994; "Reflections on the Fragility of State Institutions in Africa", *African Yearbook of International Law*, Vol. II, 1994; "Intellectual Property Protection in the Countries of Africa", *International Journal of Technology Management*, Vol. 10, 1995; "The Role of the Legal Adviser in the Reform and Restructuring of an International Organization – The Case of UNIDO", *Collection of Essays by Legal Advisers of States, Legal Advisers of International Organizations and Practitioners in the Field of International Law*, 1999; "Developing Countries and the Multilateral Trade Rules: The Continuing Quest for an Equitable Playing Field", *Liber Amicorum for Prof. Georges Abi-Saab*, 2001; "Government Collapse and State Continuity: The Case of Somalia", *Italian Yearbook of International Law*, Vol. XIII, 2003; "The Right of Intervention by the African Union: A New Paradigm in Regional Enforcement Action", *African Yearbook of International Law*, Vol. 11, 2003; "Le Conseiller juridique d'une organisation internationale face à la pratique", Société française de droit international, *La pratique et le droit international*, colloque de Genève 2003, 2004; "The Unesco Declarations on Bioethics: Emerging Principles and Standards of an International Biolaw", N. Boschiero (ed.), *Bioetica e Biotechnologie nel Diritto Internazionale e Communitario*, 2006; "Cultural Rights As Collective Rights in International Law", Lectures delivered in summer 2004 at the Thessaloniki Institute of Public International Law and International Relations, 2006; "Unesco Standard-setting Activities on Bioethics: Speak Softly and Carry a Big Stick", F. Francioni (ed.), *Biotechnologies and International Human Rights*, 2007; "La coordination des actions dans le système des Nations Unies", R. Chemain and A. Pellet (eds.), *La Charte des Nations Unies, Constitution mondiale?*, 2007; "La Nozione Di 'Beni Culturali Sotto Protezione Rafforzata' E Il Ruolo Dei Comitati Dell'Unesco Per La Protezione Del Patrimonio Culturale", *La Tutela Internationale Dei Beni Culturali Nei Conflitti Armati, a cura di Paolo Benvenutti e Rosario Sapienza*, 2007.

Judge *ad hoc* Jean-Yves De Cara

(Judge *ad hoc* in the case concerning *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*)

Born in Oujda (Morocco) on 26 June 1950.

Licence in Law, Faculty of Law, Lyon (1973). *Diplôme d'études supérieures* (DES) in Public Law and Political Science, and DES in History of Law and Roman Law, Lyon III. Doctorate in Public Law, Lyon III (1981). *Agrégation* of the Faculties of Law (1994).

Law Clerk to Sir Gordon Slynn, now the Rt. Hon. The Lord Slynn of Hadley, at the Court of Justice of the European Communities (1989-1992).

Professor, University of Toulon and of the Var (1994-1996) and Institut d'études politiques of Aix-en-Provence. Director, Centre for International European and Comparative Law. Professor, Faculty of Law, University Jean Moulin Lyon III (1996-2003). Professor, Faculty of Law, University René Descartes Paris V (since 2003).

Visiting Professor, University of Durham (1993-1997), Athens, Georgia (United States, 1996-2003), Konstanz (Germany, since 1998), St. Joseph University, Beirut (since 2000). Visiting Fellow, University of Cambridge (1996-1997).

Lawyer of the Lyon Bar (1989-1998). Littleton Chambers, Temple, London (since 2000).

Author of many publications on constitutional law, international law and community law.

CHAPTER III

JURISDICTION OF THE COURT

I. Jurisdiction in Contentious Cases

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) *States Members of the United Nations*

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 2008 the following 192 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973

State	*Date of Admission*
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966
Belarus	Original Member
Belgium	„ „
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	„ „
Chile	Original Member
China	„ „
Colombia	„ „
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Democratic Republic of the Congo	20 September 1960
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	„ „
Egypt	„ „
El Salvador	„ „
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993

State	*Date of Admission*
Estonia	17 September 1991
Ethiopia	Original Member
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	,, ,,
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	,, ,,
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kiribati	14 September 1999
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member

State	*Date of Admission*
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991
Mauritania	27 October 1961
Mauritius	24 April 1968
Mexico	Original Member
Micronesia (Federated States of)	17 September 1991
Monaco	28 May 1993
Mongolia	27 October 1961
Montenegro	28 June 2006
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nauru	14 September 1999
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	,, ,,
Nicaragua	,, ,,
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	,, ,,
Philippines	,, ,,
Poland	,, ,,
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Republic of Moldova	2 March 1992
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
Saint Kitts and Nevis	23 September 1983
Saint Lucia	18 September 1979

State	*Date of Admission*
Saint Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Serbia	1 November 2000
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	,, ,,
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Switzerland	10 September 2002
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Timor-Leste	27 September 2002
Togo	20 September 1960
Tonga	14 September 1999
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Tuvalu	5 September 2000
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	,, ,,
Uzbekistan	2 March 1992
Vanuatu	15 September 1981

State	*Date of Admission*
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council[2].

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "*(a)* Acceptance of the provisions of the Statute of the International Court of Justice;
>
> *(b)* Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> *(c)* An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[3]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.

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[1] The full text of the resolutions referred to in this section is given on pages 185-189 of *I.C.J. Acts and Documents No. 6.*

[2] Before becoming Members of the United Nations, Japan, Liechtenstein, San Marino, Nauru and Switzerland were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950, 18 February 1954, 29 January 1988 and 28 July 1948, respectively.

[3] See below, Chap. VIII, p. 406.

2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.

3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

"*(a)* A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;

(b) Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[1]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

"The Security Council

In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,

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[1] See also Rules, Art. 26, para. 1 *(c)*, and Art. 41, and below, Chap. VIII, p. 406.

Resolves that:

1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;

2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;

3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;

4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;

5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. *Basis of the Court's Jurisdiction*

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[1]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

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[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America (United States of America* v. *Hungary) (United States of America* v. *USSR); Aerial Incident of 10 March 1953 (United States of America* v. *Czechoslovakia); Antarctica (United Kingdom* v. *Argentina) (United Kingdom* v. *Chile); Aerial Incident of 7 October 1952 (United States of America* v. *USSR); Aerial Incident of 4 September 1954 (United States of America* v. *USSR); Aerial Incident of 7 November 1954 (United States of America* v. *USSR)*. On 1 July 1978 the present Rules of Court came into force, Article 38, paragraph 5, of which provides:

> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Article 38, paragraph 5, has been applied with regard to an Application filed by Hungary on 23 October 1992, instituting proceedings against the Czech and Slovak Republic, an Application filed by the Federal Republic of Yugoslavia on 16 March 1999, instituting proceedings against the Member States of NATO, an Application filed by Eritrea on 16 February 1999, instituting proceedings against Ethiopia, an Application filed by the Republic of the Congo on 9 December 2002, instituting proceedings against France, an Application filed by Liberia on 4 August 2003 instituting proceedings against Sierra Leone, and an Application filed by the Republic of Djibouti on 10 January 2006, instituting proceedings against France. As far as the Application filed by the Republic of the Congo against France is concerned, the Respondent consented to the Court's jurisdiction on 11 April 2003. That consent led to the case being entered into the General List with effect from the date of receipt of the consent as *Certain Criminal Proceedings (Republic of the Congo* v. *France)*. As far as the Application filed by the Republic of Djibouti against France is concerned; the Respondent consented to the Court's jurisdiction on 9 August 2006. That consent led to the case being entered into the General List with effect from the date of receipt of the consent as *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*. In the cases concerning *Legality of Use of Force (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *United States of America)*, Serbia and Montenegro (formerly called Yugoslavia) referred to Article IX of the Genocide Convention of 1948 and to Article 38, paragraph 5, of the Rules of Court as bases for the jurisdiction of the Court. The cases were entered in the General List on the basis of the reference to Article IX of the Genocide Convention.

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*[2]; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 177-198). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 124-130) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the

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[1] The following 16 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru)*; *Minquiers and Ecrehos (France/United Kingdom)*; *Sovereignty over Certain Frontier Land (Belgium/Netherlands)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*; *Kasikili/Sedudu Island (Botswana/Namibia)*; *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*; *Frontier Dispute (Benin/Niger)*; *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. In the *Corfu Channel (United Kingdom* v. *Albania)* case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras* v. *Nicaragua)* was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

[2] With the exception of the 16 cases listed above in footnote 1, which were brought by the notification of a special agreement, all contentious cases have been brought before the Court by means of an application instituting proceedings, irrespective of whether the Court's jurisdiction was founded on a provision in a treaty or convention, declarations recognizing the Court's jurisdiction as obligatory made by each of the parties to the dispute, or any other alleged form of consent.

International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court* (*P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports (P.C.I.J., Series E, Nos. 8-16)* the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
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> *(a)* the interpretation of a treaty;
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> *(b)* any question of international law;
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> *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation;
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> *(d)* the nature or extent of the reparation to be made for the breach of an international obligation.
>
> 3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.
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> 4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
>
> 5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 130-176).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[2].

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[3].

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

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[1] See below, Chap. V, Sec. III, part (c), pp. 216-217.

[2] An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case, by Tunisia (along with an application for revision) in respect of the Judgment delivered by the Court on 24 February 1982 in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* by Nigeria in respect of the Court's Judgment on preliminary objections of 11 June 1998 in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* and by Mexico in respect of the Judgment delivered by the Court on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*.

[3] An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. An application for revision of the Court's Judgment on preliminary objections of 11 July 1996 was filed by Yugoslavia in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*. An application for revision of the Judgment of 11 September 1992 was filed by El Salvador in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[1]:

United Nations:
  General Assembly[2],
  Security Council[3],
  Economic and Social Council[4],
  Trusteeship Council,
  Interim Committee of the General Assembly;
International Labour Organization;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization[5];
World Health Organization[6];

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[1] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

[2] The General Assembly has requested 15 advisory opinions of the Court in the following 14 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter); Reparation for Injuries Suffered in the Service of the United Nations; Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase;* idem, *Second Phase; Competence of the General Assembly for the Admission of a State to the United Nations; International Status of South West Africa; Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide; Effect of Awards of Compensation Made by the United Nations Administrative Tribunal; Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa; Admissibility of Hearings of Petitioners by the Committee on South West Africa; Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter); Western Sahara; Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947; Legality of the Threat or Use of Nuclear Weapons; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.*

[3] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970).*

[4] The Economic and Social Council requested an advisory opinion of the Court in two cases: *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* and *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights.*

[5] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco.*

[6] The World Health Assembly requested an advisory opinion of the Court in two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict.*

International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
International Fund for Agricultural Development;
World Meteorological Organization;
International Maritime Organization[1];
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 124-130) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

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[1] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization.*

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter[1]; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

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[1] By resolution 957 (X) of 8 November 1955 the General Assembly, amending the Statute of the United Nations Administrative Tribunal (Art. 11), authorized the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice. By resolution 50/54 of 11 December 1995, the General Assembly amended the Tribunal's Statute again, *inter alia* deleting Article 11 with respect to Judgments rendered after 31 December 1995.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1].

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

2. All Specialized Agencies

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. *International Labour Organization*

Instrument for the amendment of the Constitution of the International Labour Organization, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organization, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. *Food and Agriculture Organization of the United Nations*

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. *United Nations Educational, Scientific and Cultural Organization*

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organization or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)[1].

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X[2] (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

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[1] See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

[2] Article XI before the revision of 1962.

8. International Monetary Fund

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. International Civil Aviation Organization

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. International Telecommunication Union

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. World Meteorological Organization

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. International Maritime Organization

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1].

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 2008 will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

During the 12 months under review, Germany deposited on 1 May 2008 a declaration with the Secretary-General of the United Nations. This was the first such declaration made by this State.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now six such declarations.

The declarations, deposited by a total of 66 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

AUSTRALIA

22 III 2002.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations, of which the Statute of the International Court of Justice is an integral part; and

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[1] Since 1951, 15 other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, Colombia, El Salvador, France, Guatemala, Iran, Israel, Nauru (United Nations, *Treaty Series*, Vol. 1491, p. 199), Serbia and Montenegro (United Nations, *Treaty Series*, Vol. 2121, p. 422), South Africa, Thailand, Turkey and the United States.

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

Whereas the Government of Australia deposited for and on behalf of Australia on the first day of November one thousand nine hundred and forty-five its instrument of ratification to the Statute of the International Court of Justice done at San Francisco on the twenty-sixth day of June, one thousand nine hundred and forty-five; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the thirteenth day of March one thousand nine hundred and seventy-five effective until such time as notice may be given to withdraw that declaration;

The Government of Australia, having considered the said declaration, hereby gives notice effective immediately of the *withdrawal* of that declaration and *replaces* the same with the following declaration:

The Government of Australia declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to the Secretary-General of the United Nations withdrawing this declaration. This declaration is effective immediately.

This declaration does not apply to:

(*a*) any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement;

(*b*) any dispute concerning or relating to the delimitation of maritime zones, including the territorial sea, the exclusive economic zone and the continental shelf, or arising out of, concerning, or relating to the exploitation of any disputed area of or adjacent to any such maritime zone pending its delimitation;

(*c*) any dispute in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than 12 months prior to the filing of the application bringing the dispute before the Court.

In witness whereof, I, Alexander John Gosse Downer, Minister for Foreign Affairs, have hereunto set my hand and affixed my seal.

Done at Canberra this 21st day of March, two thousand and two.

(Signed) Alexander John Gosse DOWNER,
Minister for Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(Signed) Franz JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(Signed) Bruno KREISKY,
The Federal Chancellor.

(Signed) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

(a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,

(b) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,

(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,

(*d*) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(*Signed*) H. de B. FORDE,
Minister of External Affairs.

BELGIUM

[Translation from the French] 17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification[1]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(*Signed*) V. LAROCK,
Minister for Foreign Affairs.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

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[1] The instrument of ratification was deposited on 17 June 1958.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to. amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(Signed) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian] 24 VI 92.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation,

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(Signed) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;
(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(Signed) SIM VAR.

CAMEROON

[Translation from the French by the Registry] 3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

New York, 2 March 1994.

(Signed) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985 in conformity with paragraph 2 of Article 36 of the Statute of the Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

- *(a)* disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
- *(b)* disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
- *(c)* disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and
- *(d)* disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(Signed) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO,
Minister for Foreign Affairs.

CÔTE D'IVOIRE

[Translation from the French] 29 VIII 2001.

Concerned on the one hand to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and on the other hand to contribute to the development and strengthening of international law, the Republic of Côte d'Ivoire, pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the exception of:

1. disputes concerning which the parties have agreed to have recourse to some other method of settlement;

2. disputes with regard to questions which by international law fall within the exclusive competence of Côte d'Ivoire.

The present declaration has been made for an unlimited period, subject to the power of denunciation and modification attached to any obligation assumed by a State in its international relations.

It will enter into force when it is received by the Secretary-General of the United Nations.

Abidjan, 22 August 2001.

(Signed) Sangaré Abou DRAHAMANE,
Minister of State,
Minister for Foreign Affairs.

CYPRUS

3 IX 2002.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

(a) the interpretation of any treaty
  I. to which the Republic of Cyprus became a party on or after 16 August 1960 or
  II. which the Republic of Cyprus recognizes as binding on it by succession;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

i. to disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

ii. to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus.

2. The Government of the Republic of Cyprus also reserves the right at any time, by means of a notification addressed to the Secretary-

General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 3 September 2002.

(Signed) Ioannis KASOULIDES,
Minister for Foreign Affairs.

DEMOCRATIC REPUBLIC OF THE CONGO

[Translation from the French] 8 II 89.

. . . in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(Signed) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

DENMARK

[Translation from the French] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DJIBOUTI

[Translation from the French] 2 IX 2005.

Desiring, on the one hand, to reach a peaceful and equitable settlement of all international disputes, including those in which it may be involved, and, on the other hand, to make a contribution to the further development and consolidation of international law, the Republic of Djibouti, in accordance with Article 36 (2) of the Statute of the International Court of Justice, hereby declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature and extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration shall not apply to:

1. disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
2. disputes in regard to matters which are exclusively within the domestic jurisdiction of the Republic of Djibouti, under international law;
3. disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies and other similar or related acts, measures or situations in which the Republic of Djibouti is, has been or may in future be involved;
4. disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or the Government of Djibouti specially agrees to jurisdiction of the Court;

5. disputes with the Government of any State with which, on the date of an application to bring a dispute before the Court, the Government of Djibouti has no diplomatic relations or which has not been recognized by the Government of Djibouti;
6. disputes with non-sovereign States or territories;
7. disputes with the Republic of Djibouti concerning or relating to:

(a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;
(b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;
(c) the condition and status of its islands, bays and gulfs;
(d) the airspace superjacent to its land and maritime territory; and
(e) the determination and delimitation of its maritime boundaries.

This declaration is made for a period of five years, without prejudice to the right of denunciation and modification which attaches to any commitment undertaken by the State in its international relations. It shall take effect on the date of its receipt by the Secretary-General of the United Nations.

Djibouti, 18 July 2005.

(Signed) Mahmoud Ali YOUSSOUF,

Minister for Foreign Affairs and
International Co-operation.

COMMONWEALTH OF DOMINICA

24 III 2006.

The Commonwealth of Dominica hereby accepts the compulsory jurisdiction of the International Court of Justice and makes this Declaration under Article 36 (2) of the Statute of the Court.

17 March 2006.

(Signed) The Honorable Ian DOUGLAS,

Attorney General of the Commonwealth of
Dominica and Minister for Legal Affairs.

(Signed) The Honorable Charles SAVARIN,

Minister for Foreign Affairs of the
Commonwealth of Dominica.

DOMINICAN REPUBLIC

[Translation from the French] 30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification[1], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 *(b)* of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation", the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 *(b)* of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

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[1] The instrument of ratification was deposited on 4 February 1933.

Tallinn, 10 October 1991.

(Signed) A. **Rüütel**,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

New York, 25 June 1958.

(Signed) G. A. **Gripenberg**,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(*a*) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(*b*) disputes with any country in the Commonwealth;
(*c*) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(*Signed*) A. B. N'JIE,
Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Tbilisi, 16 June 1995.

(*Signed*) Alexander CHIKVAIDZE,
Minister of Foreign Affairs
of the Republic of Georgia.

GERMANY[1]

[Translation from the German] 1 V 2008.

With reference to Article 36 of the Statute of the International Court of Justice I have the honour to formulate on behalf of the Government of the Federal Republic of Germany the following declaration:

1. The Government of the Federal Republic of Germany declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to the Secretary-General of the United Nations withdrawing the declaration and with effect as from the moment of such notification, over all disputes arising after the present declaration, with regard to situations or facts subsequent to this date other than:
   (i) any dispute which the Parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement or

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[1] Registered under No. 44914.

which is subject to another method of peaceful settlement chosen by all the Parties.

(ii) any dispute which

(a) relates to, arises from or is connected with the deployment of armed forces abroad, involvement in such deployments or decisions thereon, or

(b) relates to, arises from or is connected with the use for military purposes of the territory of the Federal Republic of Germany, including its airspace, as well as maritime areas subject to German sovereign rights and jurisdiction;

(iii) any dispute in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the Federal Republic of Germany also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Berlin on 30 April 2008.

(Signed) Frank-Walter Steinmeier
The Minister for Foreign Affairs.

Greece

[Translation from the French] 10 I 94.

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(Signed) Karolos Papoulias,
Minister for Foreign Affairs.

GUINEA

[Unofficial translation from the French by the Registry] 4 XII 98.

I have the honour, in the name of the Government of the Republic of Guinea, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the said Government accepts as compulsory *ipso facto* and without special agreement, in relation to any other States accepting the same obligation, the jurisdiction of the Court in all legal disputes arising since 12 December 1958 and subsequent to this declaration concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

The Republic of Guinea makes this declaration on condition of reciprocity on the part of all States. However, it may refuse to accept the jurisdiction of the Court in the case of:

(a) disputes in respect of which the parties have agreed to have recourse to some other mode of settlement;
(b) disputes concerning questions which, under international law, fall within the exclusive jurisdiction of the Republic of Guinea.

Finally, the Government of the Republic of Guinea reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to amend or withdraw this declaration.

Conakry, 11 November 1998.

(Signed) Lamine KAMARA,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(Signed) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960 as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:
   (a) the interpretation of a treaty;
   (b) any question of international law;
   (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
   (d) the nature or extent of the reparation to be made for the breach of an international obligation.

2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:
   (a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
   (b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
   (c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
   (d) disputes referring to:
      (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;
      (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;

(iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.
(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(a) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;

(c) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;

(d) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(*Signed*) Dr. Géza Jeszenszky,
Minister for Foreign Affairs
of the Republic of Hungary.

India

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;
(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;
(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;
(5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;
(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;
(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;

(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;

(9) disputes with non-sovereign States or territories;

(10) disputes with India concerning or relating to:

  (a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;

  (b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;

  (c) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

  (d) the airspace superjacent to its land and maritime territory; and

  (e) the determination and delimitation of its maritime boundaries.

(11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959.

New Delhi, 15 September 1974.

(Signed) Swaran SINGH,
Minister for External Affairs.

JAPAN

9 VII 2007.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan that, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes arising on and after 15 September 1958 with regard to situations or facts subsequent to the same date and being not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration does not apply to any dispute in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or notified less than twelve months prior to the filing of the application bringing the dispute before the Court.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

9 July 2007.

(Signed) Kenzo OSHIMA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;

(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;

(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(Signed) Joseph MURUMBI,
Minister for External Affairs.

Lesotho

6 IX 2000.

On behalf of the Kingdom of Lesotho, I have the honour to declare that the Kingdom of Lesotho recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute the solution of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force until notice of its termination is given.

Dated at Maseru, this 31st day of August 2000.

(Signed) Motsoahae Thomas THABANE,
Minister of Foreign Affairs.

Liberia

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
(b) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

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[1] The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. Dennis,
Secretary of State.

LIECHTENSTEIN

[Translation from the French] 29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

Declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(Signed) A. Frick,
The Head of Government.

LUXEMBOURG

[Translation from the French] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(Signed) BECH.

MADAGASCAR

[Translation from the French] 2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning –

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to –

(i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
(ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(Signed) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

(vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;

(vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(Signed) G. Felice,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

(1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
(2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

(a) its territory, including the territorial sea, and the status thereof,
(b) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
(c) the determination or delimitation of any of the above,
(d) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(Signed) Alex SCEBERAS TRIGONA,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;

(v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(Signed) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[Translation from the Spanish] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(Signed) Jaime TORRES BODET,
Secretary of State for External Relations.

NETHERLANDS

[Translation from the French] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946 is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(Signed) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(1) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940 under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

(1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
(2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute: or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;
(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(Signed) M. J. C. TEMPLETON,
Permanent Representative of
New Zealand to the United Nations.

NICARAGUA

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

Reservation[1] 24 X 2001.

Nicaragua will not accept the jurisdiction or competence of the International Court of Justice in relation to any matter or claim based on interpretations of treaties or arbitral awards that were signed and ratified or made, respectively, prior to 31 December 1901.

Managua, 23 October 2001.

(Signed) Francisco X. AGUIRRE SACASA.

NIGERIA

30 IV 98.

I have the honour, on behalf of the Government of the Federal Republic of Nigeria, to declare that the acceptance by the Government of the Federal Republic of Nigeria of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 14 August 1965 under Article 36 of the Statute of the Court is hereby amended so as to read as set out in the following paragraph:

In conformity with paragraph 2 of Article 36 of the Statute, the Government of the Federal Republic of Nigeria accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court over all legal disputes referred to in that paragraph of the Statute, other than:

(i) disputes in respect of which any party to the dispute has accepted the jurisdiction of the Court by a Declaration deposited less than twelve months prior to the filing of an Application bringing the dispute before the Court after the date of this amended Declaration;

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[1] This is the text of the reservation as received by the Secretary-General of the United Nations by letter of 23 October 2001. The first paragraph of that letter read as follows:

> "I have the honour to inform you and, through you, all the States parties to the Statute of the International Court of Justice and the Secretariat of the Court, of the reservation made to Nicaragua's voluntary acceptance of the jurisdiction of the International Court of Justice by Presidential Decision No. 335-2001 of 22 October 2001, issued by the President of the Republic, Mr. Arnoldo Alemán Lacayo, the text of which is as follows: ..."

On 9 January 2002 the Secretary-General received from the Government of Costa Rica a communication transmitting the text of a formal objection to the reservation formulated by Nicaragua.

On 23 October 2002, the Permanent Mission of Costa Rica to the United Nations notified the Secretary-General of an Agreement of 26 September 2002 between the Governments of Nicaragua and of Costa Rica by which Nicaragua *(inter alia)* "undertakes to maintain, for a period of three years from today's date, the legal status existing on today's date with respect to its declaration of acceptance of the jurisdiction of the International Court of Justice".

(ii) disputes in respect of which any party has filed an Application in substitution for or in lieu of all or any part of any Application to which subparagraph (i) refers;
(iii) disputes relating to matters which are essentially within the domestic jurisdiction of the Federal Republic of Nigeria;
(iv) disputes in respect of which any other party to the dispute has accepted the jurisdiction of the Court in relation to or for the purposes of the dispute;
(v) disputes in regard to which the parties have agreed or agree to have recourse to any other method of peaceful settlement;
(vi) disputes relating to or connected with facts or situations of hostilities or armed conflict, whether internal or international in character;
(vii) disputes with any State with which the Government of Nigeria does not have diplomatic relations;
(viii) disputes concerning the allocation, delimitation or demarcation of territory (whether land, maritime, lacustrine or superjacent air space) unless the Government of Nigeria specially agrees to such jurisdiction and within the limits of any such special agreement;
(ix) disputes in relation to matters which arose prior to the date of Nigeria's independence, including any dispute the causes, origins or bases of which arose prior to that date.

The Government of the Federal Republic of Nigeria further reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, to add to, amend or withdraw this Declaration or the reservations contained therein or any that may hereafter be added.

Done at Abuja, this 29th day of April 1998.

(Signed) Chief Tom IKIMI,
Hon. Minister of Foreign Affairs,
Federal Republic of Nigeria.

NORWAY

25 VI 96.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the limitations and exceptions relating to the settlement of disputes pursuant to the provisions of, and the Norwegian declarations applicable at any given time to, the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, shall apply to all disputes concerning the law of the sea.

New York, 24 June 1996.

(Signed) Hans Jacob Biørn LIAN,
Permanent Representative of
Norway to the United Nations.

PAKISTAN

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
(b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
(c) disputes arising under a multilateral treaty unless

    (i) all parties to the treaty affected by the decision are also parties to the case before the Court, or

(ii) the Government of Pakistan specially agree to jurisdiction; and provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA

[Translation from the French] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

PARAGUAY

[Translation from the Spanish] 25 IX 96.

Whereas the Republic of Paraguay signed the Charter of the United Nations on 26 June 1945 in San Francisco and ratified it on 12 October of that year,

Having seen and examined the text of the Statute of the International Court of Justice, principal judicial organ of the United Nations, whose Article 36, paragraph 2, stipulates that States parties to the Statute may declare at any time and without special agreement that they recognize as compulsory the jurisdiction of the Court,

And whereas the National Congress agreed to recognize this by means of Act No. 913 of 7 August 1996,

Therefore:

I hereby accept on behalf of the Government of Paraguay the compulsory jurisdiction of the International Court of Justice, with headquarters at The Hague, reciprocally in relation to other States accepting the same obligation in respect of all disputes as provided for in Article 36, paragraph 2, of the Statute of the Court. The present declaration shall apply only to disputes arising subsequent to the date of this declaration.

In witness whereof I hereby sign this declaration, which is sealed with the national Seal and countersigned by the Minister for Foreign Affairs, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute –

(a) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(b) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or
(c) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or
(d) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or
(e) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines –
  (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or
  (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(Signed) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 III 96.

On behalf of the Government of the Republic of Poland I hereby declare that the Republic of Poland withdraws its consent to the compulsory jurisdiction of the International Court of Justice communicated on 25 September 1990 in light of Article 36, paragraph 2, of the Statute of the

Court. At the same time, I hereby declare that the Republic of Poland shall recognize with the effect as of 25 September 1996, in accordance with the provisions of the aforementioned article, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

(a) disputes prior to 25 September 1990 or disputes arisen out of facts or situations prior to the same date,
(b) disputes with regard to the territory and State boundaries,
(c) disputes with regard to environmental protection,
(d) disputes with regard to foreign liabilities or debts,
(e) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than twelve months prior to the filing of the application bringing the dispute before the Court,
(f) disputes in respect whereof the parties have agreed or shall agree to have recourse to other method of peaceful settlement,
(g) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the Republic of Poland.

The Government of the Republic of Poland reserves its right to withdraw or modify the present Declaration at any time and by means of a notification addressed to the Secretary-General of the United Nations, taking effect after six months from the moment whereof.

25 March 1996.

(Signed) Dariusz ROSATI,
Minister of Foreign Affairs.

PORTUGAL

25 II 2005.

On behalf of the Portuguese Republic, I declare and give notice that Portugal, continuing to accept the jurisdiction of the International Court of Justice, amends its declaration made on 19 December 1955, replacing its terms by the following:

(1) Under Article 36, paragraph 2, of the Statute of the International Court of Justice, the Portuguese Republic recognizes the jurisdiction of the Court as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation (and to the extent it accepts it), until such time as notice may be given to terminate the acceptance, in all legal disputes other than:

(i) any dispute which Portugal has agreed or shall agree with the other party or parties thereto to settle by some other method of peaceful settlement;

(ii) any dispute with any State that has deposited or ratified the acceptance of the Court's compulsory jurisdiction or an amendment thereto so that the dispute became included in its scope less than twelve months prior to the filing of the application bringing the dispute before the Court;

(iii) any dispute, unless it refers to territorial titles or rights or to sovereign rights or jurisdiction, arising before 26 April 1974 or concerning situations or facts prior to that date;

(iv) any dispute with a party or parties to a treaty regarding which the jurisdiction of the International Court of Justice has, under the applicable rules, been explicitly excluded, irrespective of whether the scope of the dispute refers to the interpretation and application of the treaty provisions or to other sources of international law.

(2) The Portuguese Republic also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Lisbon, 18 February 2005.

(Signed) Antonio Victor Martins MONTEIRO,
Minister for Foreign Affairs.

SENEGAL

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- disputes in regard to which the parties have agreed to have recourse to some other method of settlement;

- disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(Signed) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SLOVAKIA

28 V 2004.

On behalf of the Slovak Republic I have the honour to declare that the Slovak Republic recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court over all legal disputes arising after the date of signature of the present declaration with regard to situations or facts subsequent to the same date.

This declaration does not apply to disputes:

(1) which the parties have agreed to settle by some other method of peaceful settlement;
(2) in respect of which any other Party to the dispute has accepted the jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or when the declaration recognizing the jurisdiction of the Court on behalf of any other Party to the dispute was deposited less than twelve months prior to the filing of the unilateral application bringing the dispute before the Court;
(3) with regard to the protection of environment;
(4) with regard to questions which by international law fall exclusively within the domestic jurisdiction of the Slovak Republic.

The Slovak Republic reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the date of receipt of such notification, to amend or withdraw this declaration.

Done at Bratislava on 11 May 2004.

(Signed) Rudolf SCHUSTER,
President of the Slovak Republic.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi ISSA,
Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish] 29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;

(b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;

(c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;

(d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating

to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(Signed) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2 I 58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(a) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;

(b) any question of international law;

(c) the existence of any fact, which, if established, would constitute a breach of an international obligation; or

(d) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;
(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;
(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(*a*) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(*b*) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(Signed) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN

[Translation from the French] 6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The abovementioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(Signed) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(Signed) CELIO,
The President of the Confederation.

(Signed) LEIMGRUBER,
The Chancellor of the Confederation.

TOGO

[Translation from the French] 25 X 79.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations, Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(Signed) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(Signed) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

5 VII 2004.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to notify you, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, that the United Kingdom's declaration under paragraph 2 of Article 36 of the Statute of the International Court of

Justice dated 1 January 1969 is hereby amended, with immediate effect, so as to read as follows:

1. The Government of the United Kingdom of Great Britain and Northern Ireland accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 1 January 1974, with regard to situations or facts subsequent to the same date, other than:

(i) any dispute which the United Kingdom has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement;
(ii) any dispute with the government of any other country which is or has been a Member of the Commonwealth;
(iii) any dispute in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 5 July 2004.

(Signed) Emyr JONES PARRY.
Permanent Representative of the United
Kingdom of Great Britain and Northern
Ireland to the United Nations.

URUGUAY

[Translation from the French] *Prior to* 28 I 21[1].

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(Signed) B. FERNANDEZ Y MEDINA.

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[1] The date on which this declaration (undated) was first published in a League of Nations document.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. A number of these clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision; others however refer only in general terms to submission of any dispute to the Court. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada/France	II:545 Vol. 253
1939				
17 Dec.	Bogotá	Treaty of non-aggression, conciliation and judicial settlement	Colombia/ Venezuela	II:896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil/Venezuela	II:195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II:252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II:502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg/ Belgium/France	I:402 Vol. 27

1946 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1]/ United States	I: 359 Vol. 25
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I: 186 Vol. 12
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I: 186 Vol. 12
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I: 186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China[3]/Philippines	I: 175 Vol. 11
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I: 674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/ Burma	I: 904 Vol. 70
12 Nov.[2]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I: 710 Vol. 46
12 Nov.[2]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I: 772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I: 2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I: 1040 Vol. 79

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[1] All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

[3] See footnote 1, above.

1948 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Apr.	Bogotá	American treaty on pacific settlement	Multilateral	I:449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I:543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I:423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I:314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I:302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I:338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I:323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I:315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I:342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I:309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I:317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I:316 Vol. 20
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/ China[1]	I:273 Vol. 17
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/ Luxembourg	I:350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/ Sweden	I:343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/ Turkey	I:351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/ United Kingdom	I:339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/ Portugal	I:442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I:1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I:1021 Vol. 78

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[1] See footnote 1, p. 178, above.

1949	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I:428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes (Arts. 17-20)	Multilateral	I:912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/ Philippines	I:1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	I:22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I:2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	I:782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	I:1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I:1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/ Lebanon	I:1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	I:934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	I:3596 Vol. 254
1950				
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I:789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/ Ireland	I:2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/ Mexico	I:1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I:2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I:1342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I:1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I:1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/ Canada	I:1002 Vol. 77

1950 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I:3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/ Mexico	I:2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom/ Norway	I:1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I:2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/ Norway	I:4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I:2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I:1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I:3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I:2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/ United States	I:3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/ United States	I:2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/ Ethiopia	I:2785 Vol. 206
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I:1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands/ Australia	I:1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Denmark	I:6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France/ United Kingdom	I:4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden/ United Kingdom	I:2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States/Israel	I:226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia/Egypt	I:2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India/Philippines	I:2741 Vol. 203

1952 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan/ Netherlands	I: 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia/Pakistan	I: 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I: 2937 Vol. 216
1953				
9 Jan.	San José	Treaty of permanent friendship (Art. VI)	Costa Rica/Spain	I: 30952 Vol. 1776
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I: 2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I: 6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Japan	I: 2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece/ United Kingdom	I: 2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand/ Philippines	I: 2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I: 6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I: 2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands/Ceylon	I: 2608 Vol. 193
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland/Denmark	I: 2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain/United States	I: 2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I: 2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I: 2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium/Lebanon	I: 2972 Vol. 219

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[1] The date and the place given here are those at which the amending protocol was opened for signature.

1954	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden/France	I:3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand/Indonesia	I:2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom/ Mexico	I:4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I:8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I:4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I:5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I:5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of wine analysis and evaluation (Art. 6)	Multilateral	I:10416 Vol. 724
23 Oct.[1]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. VIII)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I:304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/ Fed. Rep. of Germany	I:3943 Vol. 273
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma/Japan	I:3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy/Brazil	I:4146 Vol. 284
1 Dec.[2]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I:11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/ Ecuador	I:3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/ United Kingdom	I:2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden/France	I:6150 Vol. 427

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[1] The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

[2] The date and place given here are those of the signature of the revised Convention.

1955 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France/Libya	I:27943 Vol. 1596
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States/Iran	I:4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy/Switzerland	I:4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I:5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark/Lebanon	I:3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I:7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands/ United States	I:4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I:4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I:5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I:3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom/ Fed. Rep. of Germany	I:4748 Vol. 330
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines/ Switzerland	I:4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I:3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Rep. of Korea	I:4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece/Sweden	I:4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 4 and Art. 10)	Multilateral	I:4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway/Japan	I:4054 Vol. 280

1957 (*cont.*)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (paras. 7 and 9)	Egypt[1]	I:3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention for the peaceful settlement of disputes	Multilateral	I:4646 Vol. 320
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan/Afghanistan	I:4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I:7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan/Indonesia	I:4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Arts. 50-51)	Belgium, Luxembourg, Netherlands	I:5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway/Pakistan	I:4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden/Pakistan	I:5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark/Pakistan	I:4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium/Iran	I:5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[2]	Multilateral	I:6466 Vol. 450
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Portugal	I:4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium/Pakistan	I:5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria/Afghanistan	I:9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia/Netherlands	I:5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands/Honduras	I:9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India/Italy	I:6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States/Pakistan	I:5816 Vol. 404

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[1] See Sec. II, p. 142, above.

[2] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

1959 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I:5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States/ France	I:5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan/ Fed. Rep. of Germany	I:6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I:5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden/Liberia	I:6716 Vol. 464
1960				
13 Feb.[1]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy/Lebanon	I:3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands/Guinea	I:5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I:8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium/ Switzerland	I:5996 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands/ Fed. Rep. of Germany	I:7404 Vol. 508
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands/ Fed. Rep. of Germany	I:7404 Vol. 508
24 June	Vienna	Consular convention (Art. 45)	United Kingdom/ Austria	I:7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium/Jordan	I:6959 Vol. 479
9 Dec.	Tokyo	Treaty of amity, commerce and navigation (Art. VIII, para. 2)	Japan/ Philippines	I:14703 Vol. 1001
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I:6193 Vol. 429
14 Dec.[2]	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. XI)	India/Australia	I:552 Vols. 35 and 425

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[1] The date given here is the date of signature of the amending protocol.

[2] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1960 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan/Japan	I:6093 Vol. 423
1961				
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium/ United States	I:6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium/ United Kingdom	I:7554 Vol. 253
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland/ United Kingdom	I:5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I:7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States/ Republic of Viet Nam	I:6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I:7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom/ Spain	I:8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I:6729 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland/ Fed. Rep. of Germany	I:5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I:11304 Vol. 794
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I:6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I:14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII, para. 2)	Switzerland/Liberia	I:8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I:7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I:1613 Vol. 418

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

1961 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. XIII)	Multilateral	I:1615 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII, para. 2)	United States/ Luxembourg	I:6868 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I:6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/ Denmark	I:8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I:6739 Vol. 466
3 July[2]	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I:7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom/ Japan	I:6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I:7525 Vol. 521
1963				
8 Jan.	Seoul	Consular convention (Art. 16)	United States/ Republic of Korea	I:7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relatons concerning the compulsory settlement of disputes (Arts. I, II and III)	Multilateral	I:8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands/ Paraguay	I:8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24, para. 1)	Multilateral	I:10106 Vol. 704

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

[2] The date and the places given here are those of the exchange of letters.

1963 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I:8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I:11473 Vol. 805
3 Dec.[1]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I:1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I:7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B)	Pakistan/Lebanon	I:8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/ Japan	I:8179 Vol. 561
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India/Lebanon	I:11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I:21114 Vol. 1281
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I:8359 Vol. 575
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I:8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I:8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I:8765 Vol. 605
7 July	Taif	Agreement on the partition of the neutral zone (Art. 22)	Saudi Arabia/ Kuwait	I:3054 Vol. 1750

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1966	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Feb.	Lomé	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	I:9677 Vol. 680
15 Feb.	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I:13899 Vol. 964
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I:9464 Vol. 660
1967				
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I:8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I:9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands/ Philippines	I:12382 Vol. 863
24 May	Kabul	Agreement relating to air services (Art. IX)	Denmark/ Afghanistan	I:9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I:15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I:9971 Vol. 696
14 July[1]	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28, para. 1)	Multilateral	I:11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1924 (Art. 8)	Multilateral	I:23643 Vol. 1412
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I:15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I:16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I:10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I:18232 Vol. 1155

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[1] The date and the place given here are those of the signature of the revised Convention.

1969 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
25 July	Boston	International health regulations (Art. 106)	Multilateral	I: 10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium/ United States	I: 13178 Vol. 924
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I: 16545 Vol. 1081
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/ Yugoslavia	I: 13441 Vol. 939
1970				
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I: 21051 Vol. 1275
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I: 18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I: 11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I: 12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I: 14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands/ USSR	I: 12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom/ Ghana	I: 11467 Vol. 805
24 July[1]	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I: 18338 Vol. 1161
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I: 13444 Vol. 943

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[1] The date and the place given here are those of the signature of the revised Convention.

1971 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I: 14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I: 14566 Vol. 995
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium/Turkey	I: 15142 Vol. 1029
16 May	Basel	European convention on State immunity (Art. 34)	Multilateral	I: 25699 Vol. 1495
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I: 13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I: 13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I: 14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I: 16208 Vol. 1065
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay/Argentina	I: 21424 Vol. 1295
30 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I: 14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I: 15410 Vol. 1035
1974				
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy/Spain	I: 17429 Vol. 1120
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I: 18338 Vol. 1161

1974 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan/ Saudi Arabia	I:13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay/ Argentina	I:21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I:14152 Vol. 1976
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece/Italy	I:21048 Vol. 1275
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I:19487 Vol. 1208
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I:19674 Vol. 1219
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1 *(b)*)	Multilateral	I:23432 Vol. 1401
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan/Philippines	I:20979 Vol. 1272
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I:21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I:20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I:22301 Vol. 1329
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador/ Honduras	I:21856 Vol. 1310
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland/Benin	I:19804 Vol. 1226

1984	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I:24841 Vol. 1465
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I:26164 Vol. 1513
8 Nov.	Geneva	Agreement concerning the establishment of a branch office of the Organization in Madrid (Art. 8, para. 2)	International Labour Organization/Spain	I:24015 Vol. 1422
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I:25822 Vol. 1500
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I:29004 Vol. 1678
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I:27627 Vol. 1582
1989				
19 Oct.	Berne	Treaty on extradition (Art. 17, para. 2)	Philippines/ Switzerland	I:34124 Vol. 1994
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	I:37789 Vol. 2163
1990				
18 Dec.	New York	International Convention on the protection of the rights of all migrant workers and members of their families (Art. 92, para. 1)	Multilateral	I:39481 Vol. 2220
1991				
25 Feb.	Espoo	Convention on environmental impact assessment in a transboundary context (Art. 15, para. 2)	Multilateral	I:34028 Vol. 1989
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	I:36984 Vol. 2122

1991 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
25 Nov.	Berne	Treaty on mutual assistance in criminal matters (Art. 21, para. 3)	Australia/ Switzerland	I:31588 Vol. 1856
1992				
17 Mar.	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	I:33207 Vol. 1936
9 May	New York	United Nations framework convention on climate change (Art. 14, para. 2)	Multilateral	I:30822 Vol. 1771
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	I:30619 Vol. 1760
1993				
*13 Jan.	Paris	Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Art. XIV, para. 2)	Multilateral	
10 May	Canberra	Convention for the conservation of southern bluefin tuna (Art. 16, para. 2)	Multilateral	I:31155 Vol. 1819
14 Oct.	Dakar	Agreement on management and co-operation (Art. 9)	Senegal/ Guinea-Bissau	I:32434 Vol. 1903
1994				
14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	I:21623 Vol. 2030
*13 Sep.	New York	Interim Accord (Art. 21, para. 2)	Greece/The former Yugoslav Republic of Macedonia	
1996				
10 Sep.	New York	Comprehensive nuclear test ban treaty (Art. 6, paras. 2 and 3)	Multilateral	
28 Oct.	New York	Agreement on the establishment of the International Vaccine Institute (Art. 7, paras. 2 and 3)	Multilateral	I:33836 Vol. 1979
1997				
15 Dec.	New York	International convention for the suppression of terrorist bombings (Art. 20, para. 1)	Multilateral	I:37517 Vol. 2149

1998	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
18 June	Tampere	Tampere convention on the provision of telecommunication resources for disaster mitigation and relief operations (Art. 11)	Multilateral	I:40906 Vol. 2297
24 June	Aarhus	Protocol to the 1979 convention on long-range transboundary air pollution on persistent organic pollutants (Art. 12)	Multilateral	I:21623
24 June	Aarhus	Protocol to the 1979 convention on long-range transboundary air pollution on heavy metals (Art. 12)	Multilateral	I:21623
25 June	Aarhus	Convention on access to information, public participation in decision-making and access to justice in environmental matters (Art. 16)	Multilateral	I:37770 Vol. 2161
17 July	Rome	Statute of the International Criminal Court (Art. 119, para. 2)	Multilateral	I:38544 Vol. 2187
10 Sep.	Rotterdam	Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade (Art. 20, para. 2 *(b)*)	Multilateral	I:39973 Vol. 2244
1999				
27 Jan.	Strasbourg	Criminal law convention on corruption (Art. 40, para. 2)	Multilateral	I:39391 Vol. 2216
14 June	Algiers	OAU convention on the prevention and combating of terrorism (Art. 22, para. 2)	Multilateral	I:39464 Vol. 2219
17 June	London	Protocol on water and health to the 1992 convention on the protection and use of transboundary watercourses and international lakes (Art. 20, para. 2 *(b)*)	Multilateral	I:33207 Vol. 2331
30 Nov.	Göteborg	Protocol to the 1979 convention on long-range transboundary air pollution to abate acidification, eutrophication and ground-level ozone (Art. 11, paras. 2 and 4)	Multilateral	I:21623
9 Dec.	New York	International convention for the suppression of the financing of terrorism (Art. 24)	Multilateral	I:38349 Vol. 2178

2000	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
15 Nov.	New York	United Nations convention against transnational organized crime (Art. 35)	Multilateral	I:39574 Vol. 2225
15 Nov.	New York	Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations convention against transnational organized crime (Art. 20)	Multilateral	I:39574
15 Nov.	New York	Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime (Art. 15)	Multilateral	I:39574
2001				
22 May	Stockholm	Convention on persistent organic pollutants (Art. 18)	Multilateral	I:40214
31 May	New York	Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations convention against transnational organized crime (Art. 16)	Multilateral	I:39574
3 Nov.	Rome	International treaty on plant genetic resources for food and agriculture (Art. 22)	Multilateral	I:43345
2002				
9 Sep.	The Hague	Agreement on the privileges and immunities of the International Criminal Court (Art. 32, para. 3)	Multilateral	
2003				
21 May	Kiev	Protocol on civil liability and compensation for damage caused by the transboundary effects of industrial accidents on transboundary waters to the 1992 convention on the protection and use of transboundary watercourses and international lakes and to the 1992 convention on the transboundary effects of industrial accidents (Art. 26)	Multilateral	

2003 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
21 May	Kiev	Protocol on pollutant release and transfer registers to the convention on access to information, public participation in decision-making and access to justice in environmental matters (Art. 23)	Multilateral	
31 Oct.	Merida	United Nations convention against corruption (Art. 66)	Multilateral	I:42146
2004				
2 Dec.	New York	United Nations convention on jurisdictional immunities of States and their property (Art. 27)	Multilateral	
2005				
13 Apr.	New York	International convention for the suppression of acts of nuclear terrorism (Art. 23)	Multilateral	I:44004

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. SEAT

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 412, below).

II. ADMINISTRATION

1. The Presidency and the Committees of the Court

"The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court" (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President (chair), the Vice-President and four to five judges who are elected tri-annually (at present Judges Ranjeva, Buergenthal, Owada and Tomka).

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 221-222, below).

In 1970 the Court established a Library Committee (at present Judges Buergenthal (chair), Simma, Tomka, Keith and Bennouna) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Owada (chair), Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna and Skotnikov.

2. *The Registry*

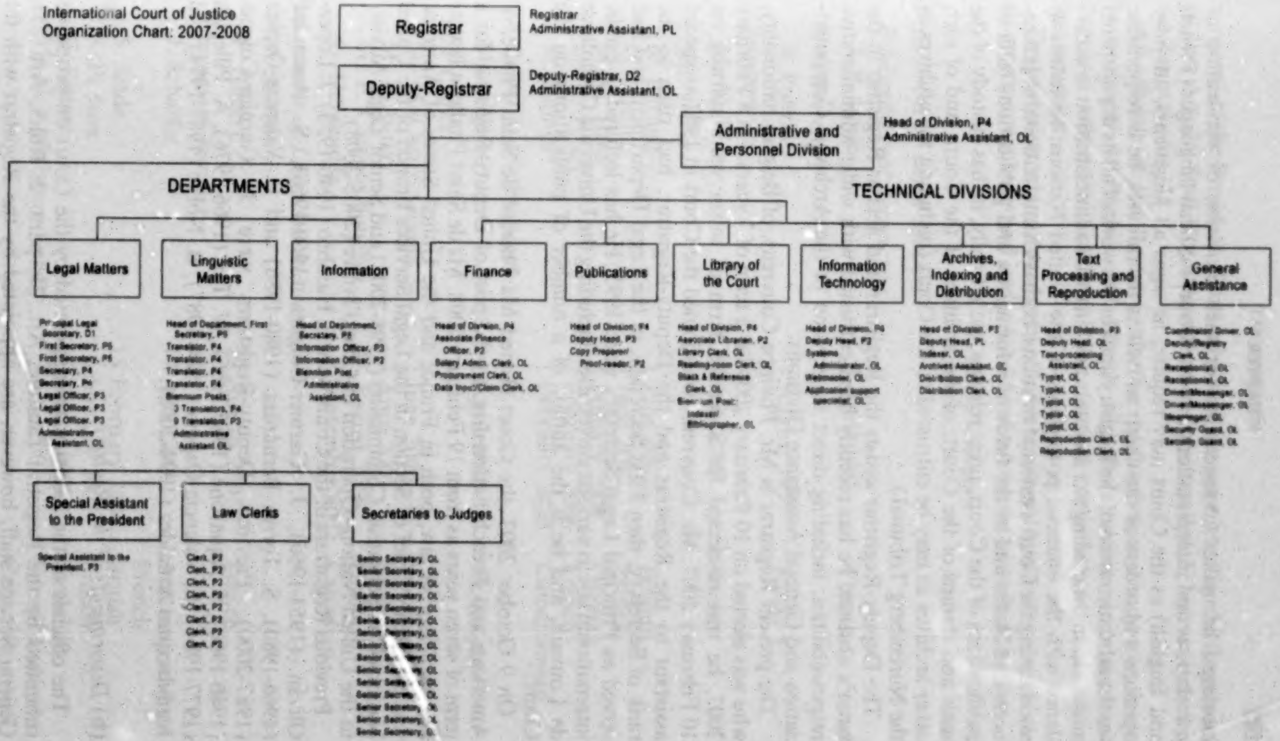
The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24). In December 1997 the Court accepted virtually all recommendations of a Sub-Committee on Rationalization which it had created to examine the working methods in the Registry and to make proposals for their rationalization and improvement (cf. the Court's response to General Assembly resolution 52/161, reproduced in *I.C.J. Yearbook 1997-1998*, p. 275). Following the inspection on management and administration in the Registry of the Court, made in 1999 by the Joint Inspection Unit, the ensuing report was considered by the General Assembly on 14 June 2001 (cf. General Assembly resolution 55/257). An organization chart of the Registry appears on the next page.

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). He is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present, in person or by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such

International Court of Justice
Organization Chart: 2007-2008


Registrar
Registrar
Administrative Assistant, PL
Deputy-Registrar
Deputy-Registrar, D2
Administrative Assistant, OL
Administrative and Personnel Division
Head of Division, P4
Administrative Assistant, OL
DEPARTMENTS
TECHNICAL DIVISIONS
Legal Matters
Principal Legal Secretary, D1
First Secretary, P5
First Secretary, P5
Secretary, P4
Secretary, P4
Legal Officer, P3
Legal Officer, P3
Legal Officer, P3
Administrative Assistant, OL
Linguistic Matters
Head of Department, First Secretary, P5
Translator, P4
Translator, P4
Translator, P4
Translator, P4
Biennium Posts
3 Translators, P4
9 Translators, P3
Administrative Assistant OL
Information
Head of Department, Secretary, P5
Information Officer, P3
Information Officer, P3
Biennium Post
Administrative Assistant, OL
Finance
Head of Division, P4
Associate Finance Officer, P2
Salary Admin. Clerk, OL
Procurement Clerk, OL
Data Input/Claim Clerk, OL
Publications
Head of Division, P4
Deputy Head, P3
Copy Preparer/ Proof-reader, P2
Library of the Court
Head of Division, P4
Associate Librarian, P2
Library Clerk, OL
Reading-room Clerk, OL
Stack & Reference Clerk, OL
Biennium Post:
Indexer/ Bibliographer, OL
Information Technology
Head of Division, P4
Deputy Head, P3
Systems Administrator, OL
Webmaster, OL
Application support specialist, OL
Archives, Indexing and Distribution
Head of Division, P3
Deputy Head, PL
Indexer, OL
Archives Assistant, OL
Distribution Clerk, OL
Distribution Clerk, OL
Text Processing and Reproduction
Head of Division, P3
Deputy Head, OL
Text-processing Assistant, OL
Typist, OL
Typist, OL
Typist, OL
Typist, OL
Typist, OL
Reproduction Clerk, OL
Reproduction Clerk, OL
General Assistance
Coordinator Driver, OL
Deputy/Registry Clerk, OL
Receptionist, OL
Receptionist, OL
Driver/Messenger, OL
Driver/Messenger, OL
Messenger, OL
Security Guard, OL
Security Guard, OL
Special Assistant to the President
Special Assistant to the President, P3
Law Clerks
Clerk, P2
Clerk, P2
Clerk, P2
Clerk, P2
Clerk, P2
Clerk, P2
Clerk, P2
Clerk, P2
Secretaries to Judges
Senior Secretary, OL
Senior Secretary, OL
Senior Secretary, OL
Senior Secretary, OL
Senior Secretary, OL
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Senior Secretary, OL
Senior Secretary, OL

meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, both with international organizations and States and in the fields of information and publications (official publications of the Court, press releases, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has recently been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

The present Registrar is Mr. Philippe Couvreur, of Belgian nationality, who was elected on 10 February 2000 for a term of 7 years. On 8 February 2007, he was re-elected for a second term of seven years starting on 10 February 2007. Mr. Couvreur, who joined the Court in 1982 as special assistant to the Registrar and the Deputy-Registrar, had risen to the rank of Secretary, then First Secretary, in the Legal Department and had served as Principal Legal Secretary since 1995. He has lectured in public international law at various universities, including the Université Catholique de Louvain, and he is the author of a number of publications on the Court.

On 9 October 2007, the Court elected Ms Thérèse de Saint Phalle, of American and French nationality, to the post of Deputy-Registrar for a term of seven years as from 19 February 2008. Ms de Saint Phalle, a lawyer and professor of law, both in France and the United States of America, was previously Chief of Section in the Legal Services Branch of the United Nations Compensation Commission (1998-2005) and Senior Legal Adviser to the United Nations Operation in Côte d'Ivoire (2005-2008).

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980), S. Torres Bernárdez (1980-1986) and E. Valencia-Ospina (1987-2000). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987), B. Noble (1987-1994) and Jean-Jacques Arnaldez (1994-2008).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service staff, however, are appointed by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar. (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 2008.

	Date of assumption of duties	*Nationality*
Department of Legal Matters		
Principal Legal Secretary		
J.-P. Isselé	5 April 1988	French
First Secretary		
S. Punzhin	1 August 1997	Russian
Secretary		
Ms N. Wiles	17 July 2000	British
Legal Officers		
N. Burniat	1 June 2002	Belgian
G. Etienne	3 June 2002	French
Ms C. Hoss	3 January 2006	German
Ms F. Zaoui	2 February 2006	French
M. Kamga	1 February 2008	Cameroonian
Assistant to the President		
Ms P. Webb	1 April 2006	Australian
Law Clerks		
Ms M. Castro Granja	2 June 2000	Spanish
Ms F. Isliker	3 April 2007	Swiss
Ms E. Campos Sanchez	28 August 2006	Peruvian
G. Hernandez	3 September 2007	Canadian
Department of Linguistic Matters		
First Secretary		
P. Hilgert	29 August 2001	French
Translators/Revisers		
J. Scharfer	17 April 2000	American and French
S. Slade	15 February 2007	British
S. Pierson	1 January 2007	French
F. Brunet	17 March 2008	Canadian
Ms N. Apfelbaum-Lubek	5 June 2001	French and Canadian

Ms M. Vidil	2 July 2001	French
Ms V. Sorensen Ravnso	21 January 2002	French
Ms L. Wagner	14 April 2003	French
Ms S. Henry	30 August 2004	French
J.-A. Trine	6 September 2004	French
T. Kirk	1 March 2006	British
Ms G. Yama	1 November 2006	Congolese
Ms S. Dion	1 January 2007	French

Department of Information

First Secretary

Ms L. Blairon	1 October 1997	Belgian

Information Officers

B. Heim	1 February 2002	French
M. Schouppe	1 November 2005	Belgian
Ms J. Moore	26 October 2006	British

Publications Division

S. H. Herd Head of Division	1 August 1987	British
Ms F. Bouillé-Chiche Deputy Head of Division	5 August 2002	French
A. Baudat	1 November 2000	Swiss

Finance Division

Ms Z. Milinković Head of Division	14 January 2008	Serbian
Ms K. Benalla Deputy Head of Division	1 March 2007	Dutch and Moroccan
C. Uriot	1 March 1981	Dutch
T. Komnenović	1 August 1973	Serbian
Ms S. Kablan-Tasan	1 August 2002	Turkish and Dutch

Administrative/Personnel Division

L.-H. Jordans Head of Division	15 February 2006	Dutch

Documents Division/Library of the Court

Ms J. Rangel Librarian, Head of Division	1 January 2003	Brazilian
M. Schiethart Deputy Head of Division	1 January 1981	Dutch
Ms C. Fumé	23 July 2002	French
M. Markov	5 November 2007	Canadian and Bulgarian
Ms F. Biesdorf	12 May 2008	Brazilian
Ms S. Hansen	1 March 2008	Brazilian

Archives, Indexing and Distribution Division

S. R. S. Bedi Head of Division	16 September 1985	Indian
M. Sow Deputy Head of Division	1 August 1985	Senegalese
Distribution		
B. J. van Veen	1 March 1982	Dutch
D. Ahanhanzo	1 July 2001	Beninese

Administrative Assistants

Ms D. Brouillet-Sourisseau	1 January 1990	French
Ms A.-M. Curvers	1 September 1996	Belgian
Ms S. Burer	1 June 1999	Dutch
Ms A. Dumoulin	14 May 2001	French
Ms B. Dalsbaek	1 April 2004	French
Ms A. Bronner-Ferry	5 March 2007	French
Ms A. De Jong	26 February 2007	Dutch

Shorthand, Typewriting and Reproduction Division

Ms H. E. Jeffares Head of Division	1 October 1993	Irish
Ms L. Tanggahma Deputy Head of Division	14 March 2001	Dutch
Shorthand Typists		
French-speaking		
Ms R. Baquedano	6 January 2003	French
Ms A. Robert	7 July 2005	French
Ms G. Catroux	18 July 2005	French
Ms C. Yerbanga	1 January 2007	Burkina Faso
Ms C. Vallat	25 October 2007	French
Ms M. Lazaar	5 May 2008	French
English-speaking		
Ms L.-A. Adam	1 November 2004	Canadian
Ms E. Newman	6 September 2006	Irish
Reproduction		
G. D'Olivo	1 December 1982	Italian and Dutch
E. van Heeswijk	17 August 1993	Dutch

Secretaries of Members of the Court

Ms M. Page Co-ordinator	1 January 1981	French and Dutch
Ms J. E. van Hamel-Newall	21 May 1985	British
Ms J. Devisme	1 January 1986	French
Ms H. H. Muijen	1 April 1986	Dutch

Ms A. Rowland-Moore	1 January 1989	British
Ms M. Cleary-Cogan	16 January 1989	British
Ms M. Sullivan	1 January 1990	British
Ms Ch. L. Kamers	8 March 1993	Dutch
Ms D. Okandeji	8 September 1997	French
Ms A. Hooft-Dupont	22 September 1997	Belgian
Ms C. Wainwright	1 January 1999	Australian and Dutch
Ms S. van Beek	1 May 2002	American
Ms Y. de Vogel	3 September 2002	Australian and Dutch
Ms G. Mould	9 May 2005	British
Ms G. Burgers-Hermers	1 March 2007	Dutch

Information Technology Division

G. Auber Head of Division	1 July 2003	French
L. Ber	5 April 2004	Cambodian
K. Coulibaly	8 April 2004	Ivorian
N. Pino	1 July 2007	Venezuelan
J. Nabais	1 February 2007	Portuguese

General Assistance Division

R. Pijl Co-ordinator	1 January 1990	Dutch
H. R. I. Castens	1 June 1999	Dutch
R. Van Ginkel	1 July 2007	Dutch
H. Alegre	1 November 2007	Portuguese

Telephone Operators/Receptionists

Ms M. Buan	1 October 1991	Dutch
Ms J. Kamga	24 February 2003	Cameroonian

Security Guards

R. Fischer	1 June 2005	Dutch
P. Kelapanda	1 October 2004	Indian

Messenger

D. Driessen	1 April 1982	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164), in July 1996, in April 1997 (see *I.C.J. Yearbook 1997-1998*, p. 265), in December 2000, September 2002, May 2006, June 2006 and in June 2007.

Before 1979, staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 6*, pp. 205-211).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 211-215) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. *Relations with the Public*

(a) *Correspondence*

Article 26, paragraph 1 *(a)*, of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, Carnegieplein 2, 2517 KJ The Hague, Netherlands* (telefax (+3170) 364 99 28).

Queries may also be sent in either English or French via the Court's website[1].

The Court's telephone number is (+3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace. The latter is situated in a new building adjoining the Palace and is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 *(n)*).

(c) *Information*

Article 26, paragraph 1 *(k)* and *(m)*, of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by the Information Department.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[2].

On 16 April 2007, to mark the end of its sixtieth anniversary year, the Court launched its new website. This site replaced the Court's original website launched on 25 September 1997. The new site contains the entire jurisprudence of the Court since 1946, as well as that of its predecessor, the Permanent Court of International Justice. Information concerning the functioning of the Court, its history, its Members, the Judges *ad hoc* and the Registry are also featured.

As in the past, the site is available in the two official languages of the Court, English and French. A number of documents are now also available in the other four official languages of the United Nations: Arabic, Chinese, Russian and Spanish. Among these documents are the United

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[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

[2] These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 366-369.

Nations Charter, the Statute of the Court, the Court's Annual Reports to the General Assembly since 1990 and the summaries of decisions of the Court (from 1948 to 2002).

The new site offers detailed information for those wishing to visit the Court, including a calendar of events and hearings, directions to the Peace Palace, and online admission forms for groups wishing to attend hearings or presentations on the activities of the Court. Vacancy announcements and internship opportunities are also featured.

The site features a press room which provides media representatives with all of the necessary information for covering the work of the Court and for accrediting themselves for hearings. A photo gallery, from which high-resolution digital photographs can be downloaded free of charge for non-commercial use, is also accessible. The website can be visited at the following address: http://www.icj-cij.org.

Also obtainable, in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, from the Registry or United Nations Information Centres, are:

- a popular booklet entitled "The International Court of Justice. Questions and Answers about the Principal Judicial Organ of the United Nations" (2000), published by the United Nations Department of Public Information on co-operation with the Court. The Arabic, Chinese, Dutch, English, French, Russian and Spanish editions have been published.
- a "handbook", in French and English, on *The International Court of Justice* (2004), a former edition (1986) of which was published in Arabic, Chinese, English, French, Russian, Spanish and German (German edition out of stock).
- unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others.

Information on the assistance given to members of the public and representatives of the media to help them follow the proceedings in cases before the Court will be found within the following section.

III. PRACTICE IN REGARD TO PROCEDURE

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 *(f)-(i)*, and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 *(b)*, and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 118-121, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a press release informing the general public and the media that proceedings have been instituted. Copies of the special agreement or application and the press release are made available on the website of the Court.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40; Practice Direction VIII). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 6*, pp. 211-215).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14; Practice Direction I).

The party's submissions are set out in each pleading (Rules, Art. 49; Practice Direction II).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52; Practice Directions III and IV) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents (75 of which should be on paper, while 50 may be on CD-ROM);
- an electronic copy of any pleading;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with.

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 *(g)*).

The Registrar arranges for the publication of press releases giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the media on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by posting them on the Court's website and by depositing copies in a number of libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see *(e)* below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20; Practice Direction VI).

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

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[1] In the *Corfu Channel (United Kingdom* v. *Albania)* case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear (Cambodia* v. *Thailand)* case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa)* cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*. The Court did pay a visit to the site of the hydroelectric dam project at Gabčíkovo-Nagymaros in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*. In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro)* the Court heard witnesses, experts and witness-experts presented by both Parties.

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections by the parties.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court (Practice Direction IX); such documents must be filed in the same number of copies as the pleadings (see *(b)* above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues press releases giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Members of the diplomatic corps, representatives of the media and any person who comes to the Peace Palace on the occasion of a hearing are welcome to attend, sometimes subject to accreditation or admission procedures. Photographs may be taken for a few minutes at the opening of hearings. Filming is permitted under the same rules.

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 6*, pp. 175-183).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see *(c)* above).

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed; one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of the judgment are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial summary of the decision and the press release are issued to those attending on the authority of the Registrar. They are also published on the Court's website.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 374-391, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 406).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. The Fund is open to States in all circumstances where the jurisdiction of the Court (or the admissibility of the application) is not or is no longer the subject of dispute on their part. A further purpose of the Fund is to help States parties to a dispute to comply with the judgment rendered by the Court.

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[1] Cf. United Nations doc. A/44/PV.43 (1989).

3. *Occasional Rules in Contentious Cases*

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)[1].

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[2].

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[1] Such provisional measures have been requested in the following 38 cases: *Anglo-Iranian Oil Co. (United Kingdom* v. *Iran)*; *Interhandel (Switzerland* v. *United States of America)*; *Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland)*; *Nuclear Tests (Australia* v. *France) (New Zealand* v. *France)*; *Trial of Pakistani Prisoners of War (Pakistan* v. *India)*; *Aegean Sea Continental Shelf (Greece* v. *Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal)*; *Passage through the Great Belt (Finland* v. *Denmark)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro)* (in this case two requests were made by Bosnia and Herzegovina and one by Serbia and Montenegro; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*; *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand *v.* France) *Case*; *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*; *LaGrand (Germany* v. *United States of America)*; in the ten cases concerning *Legality of Use of Force (Serbia and Montenegro* v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) (Yugoslavia* v. *Spain) (Serbia and Montenegro* v. *United Kingdom) (Yugoslavia* v. *United States of America)*; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*; *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)*; *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo* v. *Rwanda)*; *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*; *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*; *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)* (in this case, a request was made by Argentina and another was made by Uruguay) and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*.

[2] Proceedings were joined in the following cases: *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*.

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 121, above) must be filed as soon as possible, and not later than three months after the delivery of the Memorial (Rules, Art. 79). Notwithstanding that provision the Court, following the submission of the application in a case and after the President has met and consulted with the parties, may decide that any questions of jurisdiction and admissibility shall be determined separately. Where the Court so decides, the parties shall submit any pleadings as to jurisdiction and admissibility within the time-limits fixed by the Court and in the order determined by it. Preliminary objections suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. In accordance with Practice Direction V, this time-limit should generally not exceed four months from the date of the filing of the preliminary objections. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[1]. The Court may also give effect to an agreement between the parties that objections should be heard and determined within the framework of the merits[1].

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[1] The Court gave its decision on the preliminary objections raised in the following 33 cases: *Corfu Channel (United Kingdom* v. *Albania); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Nottebohm (Liechtenstein* v. *Guatemala); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America); Certain Norwegian Loans (France* v. *Norway); Right of Passage over Indian Territory (Portugal* v. *India); Interhandel (Switzerland* v. *United States of America); Aerial Incident of 27 July 1955 (Israel* v. *Bulgaria); Temple of Preah Vihear (Cambodia* v. *Thailand); South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); Northern Cameroons (Cameroon* v. *United Kingdom); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain); Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy); Certain Phosphate Lands in Nauru (Nauru* v. *Australia); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Oil Platforms (Islamic Republic of Iran* v. *United States of America); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro); Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*; *Aerial Incident of 10 August 1999 (Pakistan* v. *India); Legality of Use of Force (Serbia and Montenegro* v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) (Serbia and Montenegro* v. *United Kingdom)*; *Certain Property (Liechtenstein* v. *Germany)*; *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*; *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)* and *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*. In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn *(Rights of Nationals of the United States of America in Morocco (France* v. *United States of America))* or as the result of a discontinuance: *Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited* (first application) *(Belgium* v. *Spain); Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America); Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Rwanda)*. The Court also dealt with questions of jurisdiction or admissibility in the following 14 cases:

(d) *Counter-claims*

Counter-claims may be presented if they are directly connected with the subject-matter of the claim of the other party and come within the jurisdiction of the Court. They are to be made by a party in its Counter-Memorial, as part of the submissions. In case of doubt, it is for the Court to decide whether a counter-claim is admissible and shall form part of the proceedings (Rules, Art. 80)[2].

(e) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)[3].

Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan); Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain); East Timor (Portugal* v. *Australia); Fisheries Jurisdiction (Spain* v. *Canada);* and *LaGrand (Germany* v. *United States of America).* After the Court gave its decision on preliminary objections in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro),* it dealt once more with questions of jurisdiction in its judgment on the merits in the case. The Court did not deal with questions of jurisdiction or admissibility raised in the case concerning the *Trial of Pakistani Prisoners of War (Pakistan* v. *India).*

[1] This was done in the cases concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* and *East Timor (Portugal* v. *Australia).* Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans (France* v. *Norway)* and by decision of the Court in the following two cases: *Right of Passage over Indian Territory (Portugal* v. *India); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain).*

[2] Counter-claims were made by the respondent States, and admitted by the Court, in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro); Oil Platforms (Islamic Republic of Iran* v. *United States of America); Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria);* and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda).* During the period under review, the Court has placed on record the withdrawal of the counter-claims submitted by the respondent State in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro).*

[3] Applications for permission to intervene were submitted in the *Nuclear Tests* cases *(Australia* v. *France) (New Zealand* v. *France),* in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta);* in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras);* in the *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand *v.* France) *Case* (in that case, several States filed a document entitled "Application for Permission to Intervene under Article 62/Declaration of Intervention under Article 63");

If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[1].

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(f) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[2].

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[3].

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in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* and in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*.

[1] A third State intervened in the *Haya de la Torre (Colombia/Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*. (See also footnote 3 above.)

[2] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom* v. *Albania), Assessment of Amount of Compensation; Anglo-Iranian Oil Co. (United Kingdom* v. *Iran), Interim Protection; Nottebohm (Liechtenstein* v. *Guatemala), Preliminary Objection; Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland), Interim Protection, Jurisdiction of the Court* and *Merits; Nuclear Tests (Australia* v. *France) (New Zealand* v. *France), Interim Protection* and *Second Phase; Trial of Pakistani Prisoners of War (Pakistan* v. *India), Interim Protection; Aegean Sea Continental Shelf (Greece* v. *Turkey), Interim Protection* and *Jurisdiction of the Court; United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran), Provisional Measures* and *Merits; Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America), Merits; Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain), Jurisdiction and Admissibility*.

[3] The following 19 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Electricité de Beyrouth Company (France* v. *Lebanon); Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria) (United Kingdom* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Border and Transborder Armed Actions (Nicaragua* v. *Costa Rica); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Passage through the Great Belt (Finland* v. *Denmark); Certain Phosphate Lands in Nauru (Nauru* v. *Australia); Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau* v. *Senegal); Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America); Vienna Convention on Consular Relations (Paraguay* v. *United States of America); Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Rwanda); Questions of Interpretation and Application of the 1971 Montreal*

(g) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, p. 121). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[1,2].

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(h) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[3].

4. *Procedure in Advisory Cases*

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 22-29, above).

Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)* and *Status vis-à-vis the Host State of a Diplomatic Envoy to the United Nations (Commonwealth of Dominica* v. *Switzerland)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

[1] The Court gave a decision on a request for interpretation submitted by Colombia regarding its Judgment in the case concerning *Asylum (Colombia/Peru)* and on a request for interpretation of its Judgment on preliminary objections in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*. On 5 June 2008, Mexico also filed a request for interpretation of the Judgment delivered on 31 March 2004 by the Court in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*.

[2] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and an application for revision submitted by Yugoslavia in connection with its Judgment of 11 July 1996 on preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*. A Chamber of the Court gave a decision on an application for revision submitted by El Salvador in connection with the Judgment rendered by another chamber on 11 September 1992 in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.

[3] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)* in the case of that name.

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 121-122, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[1].

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109), after which copies are distributed to those attending. The text of the advisory opinion, a summary and a press release are then posted on the website of the Court.

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[1] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

The opinions given by the Court are purely advisory in character. In certain cases, the instrument by which the Court is seized provides that the advisory opinion has binding force.

IV. OCCASIONAL FUNCTIONS ENTRUSTED TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc.

States proposing to insert such a provision in a treaty should consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. The President should not be called upon to perform this function in regard to transnational arbitration agreements dealing with matters in which public international law does not find its place.

The President should be consulted in advance and a draft contract should be submitted to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 *(a)* of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 2007-2008

During the period under review 15 contentious cases were pending, 12 of which remained so as at 31 July 2008.

During that period three new cases were submitted to the Court: *Maritime Dispute (Peru* v. *Chile)*; *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*; and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*.

The Court held public hearings in the following cases: *Sovereignty over Pedra Branca/Pulau Batu Puteh (Malaysia/Singapore)*; *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*; and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America,* (provisional measures).

The Court rendered judgment on the merits in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*; on the preliminary objections to jurisdiction raised by the Respondent in the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*; on the merits in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh (Malaysia/Singapore)*; and on the merits in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*.

In the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, the Court made an Order with respect to the request for provisional measures submitted by Mexico.

The Court (or the President of the Court) also made Orders authorizing the submission of certain written pleadings, and fixing or extending time-limits for the filing of such pleadings or other documents, in the following cases: *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*; *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*; *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*; *Maritime Dispute (Peru* v. *Chile)*; *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*; and *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*.

I. Cases before the Court

1. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> *(a)* whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> *(b)* whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> *(c)* what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the time-limits fixed by the Court or its President.

Public hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčíkovo-Nagymaros Project, by virtue of Article 66 of the Rules of Court.

In its Judgment of 25 September 1997 (*I.C.J. Reports 1997*, p. 7) the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional

Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

Hungary filed a written statement of its position on the request for an additional Judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

The Parties have subsequently resumed negotiations and have informed the Court on a regular basis of the progress made.

2. *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*

On 28 December 1998 Guinea instituted proceedings against the Democratic Republic of the Congo by filing an "Application for the purposes of diplomatic protection", in which it requested the Court to find that "the Democratic Republic of the Congo is guilty of serious breaches of international law committed upon the person of a Guinean national", Ahmadou Sadio Diallo.

According to Guinea, Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unjustly imprisoned by the authorities of that State" for two and a half months, "despoiled of his sizable investments, business, movable and immovable property and bank accounts, and then", on 2 February 1996 "expelled from the country" because he had sought the payment of debts owed to him by the Democratic Republic of the Congo and by oil companies established in that country under contracts with companies owned by him, namely Africom-Zaire and Africontainers-Zaire.

As basis for the Court's jurisdiction, Guinea invokes the declarations whereby the Democratic Republic of the Congo and Guinea accepted the compulsory jurisdiction of the Court on, respectively, 8 February 1989 and 11 November 1998.

Guinea filed its Memorial within the time-limit as extended by the Court by an Order of 8 September 2000. On 3 October 2002, within the time-limit for the deposit of its Counter-Memorial, as extended, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

By an Order of 7 November 2002 (*I.C.J. Reports 2002*, p. 607), the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

Public hearings on the preliminary objections were held from 27 November 2006 to 1 December 2006. On 24 May 2007, the Court rendered a Judgment declaring Guinea's Application to be admissible insofar as it concerned protection of Mr. Diallo's rights as an individual and of his direct rights as *associé* in Africom-Zaire and Africontainers-Zaire, but inadmissible in so far as it concerned protection of Mr. Diallo in respect of alleged violations of the rights of Africom-Zaire and Africontainers-Zaire.

By an Order of 27 June 2007, the Court fixed 27 March 2008 as the time-limit for the filing of a Counter-Memorial by the Democratic Republic of the Congo. The Counter-Memorial was filed within the time-limit thus fixed. By an Order of 5 May 2008, the Court authorized the submission of a Reply by Guinea and a Rejoinder by the Democratic Republic of the Congo. It fixed 19 November 2008 and 5 June 2009 as the respective time-limits for the filing of those written pleadings.

3. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*

On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of armed aggression perpetrated . . . in flagrant violation of the Charter of the United Nations and of the Charter of the Organization of African Unity".

In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved, *inter alia,* violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations". It sought "to secure the cessation of the acts of aggression directed against it, which constituted a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought

> "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it]".

Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare Uganda guilty of an act of aggression contrary to Article 2, paragraph 4, of the Charter of the United Nations and that it was committing repeated violations of the Geneva Convention of 1949 and the Additional Protocols thereto of 1977. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

The Memorial of the Democratic Republic of the Congo and the Counter-Memorial of Uganda were filed within the time-limits fixed by an Order of 21 October 1999 (*I.C.J. Reports 1999 (II)*, p. 1025).

On 19 June 2000, the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of . . . Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000 and, at a public sitting held on 1 July 2000, the Court rendered its Order indicating certain provisional measures (*I.C.J. Reports 2000*, p. 111).

In its Counter-Memorial, Uganda presented three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 (*I.C.J. Reports 2001*, p. 660), the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the filing of the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Uganda counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time-limit fixed. By an Order of 7 November 2002 (*I.C.J. Reports 2002*, p. 604), the Court extended the time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

By an Order of 29 January 2003 (*I.C.J. Reports 2003*, p. 3) the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

Public hearings on the merits of the case were held from 11 to 29 April 2005.

In the Judgment which it rendered on 19 December 2005, the Court found that Uganda, by engaging in military activities against the Democratic Republic of the Congo on the latter's territory, by occupying Ituri and by actively extending support to irregular forces having operated on the territory of the DRC, had violated the principle of non-use of force in international relations and the principle of non-intervention; that it had violated, in the course of hostilities between Ugandan and Rwandan military forces in Kisangani, its obligations under international human rights law and international humanitarian law; that it had violated, by the conduct of its armed forces and in particular as an occupying Power in Ituri district, other obligations incumbent on it under international human rights law and international humanitarian law; and that it had violated its obligations under international law by acts of looting, plundering and exploitation of Congolese natural resources committed by members of its armed forces in the territory of the DRC and by its failure to prevent such acts as an occupying Power in Ituri district. The Court also found that Uganda had not complied with the Order of the Court on provisional measures of 1 July 2000.

Regarding the second counter-claim submitted by Uganda, having rejected the first, the Court found that the Democratic Republic of the Congo had for its part violated obligations owed to the Republic of Uganda under the Vienna Convention on Diplomatic Relations of 1961, through maltreatment of or failure to protect the persons and property protected by the said Convention.

The Court therefore found that the Parties were under obligation to one another to make reparation for the injury caused; it decided that, failing agreement between the Parties, the question of reparation would be settled by the Court. It reserved for this purpose the subsequent procedure in the case. The case therefore remains pending.

4. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. *Serbia)*

On 2 July 1999 Croatia instituted proceedings against Serbia (then known as the Federal Republic of Yugoslavia) with respect to a dispute concerning alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

In its Application, Croatia contended *inter alia* that, "[b]y directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia", Serbia was liable for "ethnic cleansing" committed against Croatian citizens, "a form of genocide which resulted in large numbers of Croatian citizens being displaced, killed, tortured, or illegally detained, as well as [causing] extensive property destruction".

Accordingly, Croatia requested the Court to adjudge and declare that Serbia had "breached its legal obligations" to Croatia under the Genocide Convention and that it had

> "an obligation to pay to . . . Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

As basis for the jurisdiction of the Court, Croatia invoked Article IX of the Genocide Convention, to which, it claims, both States are parties.

By an Order of 14 September 1999, the Court fixed 14 March 2000 and 14 September 2000 as the respective time-limits for the filing of a Memorial by Croatia and a Counter-Memorial by Serbia. These time-limits were twice extended, by Orders of 10 March 2000 and 27 June 2000. Croatia filed its Memorial within the time-limit as extended by the latter Order.

On 11 September 2002, within the time-limit for the filing of its Counter-Memorial as extended by the Order of 27 June 2000, Serbia raised certain preliminary objections on jurisdiction and admissibility. It maintained in particular that the Court lacked jurisdiction over the dispute because the FRY was not party to the Genocide Convention on 2 July 1999, the date proceedings were instituted before the Court. Serbia contended that it did not become party to the Convention until 10 June 2001, after its admission to the United Nations on 1 November 2000, and, in addition, that it never became bound by Article IX of the Genocide Convention because it entered a reservation to that article when it acceded to the Convention. Serbia further argued that Croatia's Application was inadmissible in so far as the most serious incidents and omissions described therein occurred prior to 27 April 1992, the date on which the FRY came into being, and could not therefore be attributed to it. Lastly, it asserted that certain specific claims made by Croatia were inadmissible or moot. Pursuant to Article 79 of the Rules of Court, the proceedings on the merits were suspended. Croatia filed a written statement of its observations and submissions on Serbia's preliminary objections on 25 April 2003, within the time-limit fixed by the Court.

Public hearings on the preliminary objections on jurisdiction and admissibility were held from 26 May 2008 to 30 May 2008. At the conclusion of those hearings, the Parties presented the following final submissions to the Court:

For Serbia:

> "Serbia requests the Court to *adjudge and declare*:
>
> 1. that the Court lacks jurisdiction,
> or in the alternative

2. (*a*) that claims based on acts or omissions which took place prior to 27 April 1992 are beyond the jurisdiction of this Court and inadmissible; *and*

   (*b*) that claims referring to
   - submission to trial of certain persons within the jurisdiction of Serbia,
   - providing information regarding the whereabouts of missing Croatian citizens, and
   - return of cultural property

are beyond the jurisdiction of this Court and inadmissible."

For Croatia:

> "The Republic of Croatia respectfully requests the International Court of Justice to:
>
> 1. *reject* the first, second and third preliminary objection of Serbia, with the exception of that part of the second preliminary objection which relates to the claim concerning the submission to trial of Mr. Slobodan Milošević, and accordingly to
> 2. *adjudge and declare* that it has jurisdiction to adjudicate upon the Application filed by the Republic of Croatia on 2 July 1999."

At the time of the preparation of this *Yearbook*, the Court was deliberating its Judgment.

5. Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. *Honduras)*

On 8 December 1999, Nicaragua filed an Application instituting proceedings against Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

In its Application, Nicaragua stated *inter alia* that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", while Honduras's position was that

> "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras an award which was found to be valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river".

According to Nicaragua, "the position adopted by Honduras . . . has brought about repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "diplomatic negotiations have failed".

Nicaragua therefore requested the Court

> "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

As basis for the Court's jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

The Memorial of Nicaragua and the Counter-Memorial of Honduras were filed within the time-limits fixed by an Order of 21 March 2000.

Copies of the pleadings and documents annexed were requested by the Governments of Colombia, Jamaica and El Salvador. In accordance with Article 53, paragraph 1, of its Rules, the Court ascertained the views of the Parties and, taking account of those views, as expressed, acceded to the requests of the first two countries but not to that of the third.

By an Order of 13 June 2002 (*I.C.J. Reports 2002*, p. 216), the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras. These pleadings were filed within the prescribed time-limits.

Public hearings on the merits were held from 5 March 2007 to 23 March 2007. At the conclusion of the oral proceedings, the Parties presented the following final submissions to the Court:

For Nicaragua:

> "May it please the Court to adjudge and declare that:
>
> The bisector of the lines representing the coastal fronts of the two Parties as described in the pleadings, drawn from a fixed point approximately 3 miles from the river mouth in the position 15° 02′ 00″ N and 83° 05′ 26″ W, constitutes the single maritime boundary for the purposes of the delimitation of the disputed areas of the territorial sea, exclusive economic zone and continental shelf in the region of the Nicaraguan Rise.
>
> The starting-point of the delimitation is the thalweg of the main mouth of the river Coco such as it may be at any given moment as determined by the Award of the King of Spain of 1906. Without prejudice to the foregoing, the Court is required to decide the question of sovereignty over the islands and cays within the area in dispute."

For Honduras:

> "May it please the Court to adjudge and declare that:
>
> 1. The islands Bobel Cay, South Cay, Savanna Cay and Port Royal Cay, together with all other islands, cays, rocks, banks and reefs

claimed by Nicaragua which lie north of the 15th parallel are under the sovereignty of the Republic of Honduras.

2. The starting-point of the maritime boundary to be delimited by the Court shall be a point located at 14° 59.8′ N latitude, 83° 05.8′ W longitude. The boundary from the point determined by the Mixed Commission in 1962 at 14° 59.8′ N latitude, 83° 08.9′ W longitude to the starting-point of the maritime boundary to be delimited by the Court shall be agreed between the Parties to this case on the basis of the Award of the King of Spain of 23 December 1906, which is binding upon the Parties, and taking into account the changing geographical characteristics of the mouth of the river Coco (also known as the river Segovia or Wanks).
3. East of the point at 14° 59.8′ N latitude, 83° 05.8′ W longitude, the single maritime boundary which divides the respective territorial seas, exclusive economic zones and continental shelves of Honduras and Nicaragua follows 14° 59.8′ N latitude, as the existing maritime boundary, or an adjusted equidistance line, until the jurisdiction of a third State is reached."

On 8 October 2007, the Court rendered its Judgment in the case (*I.C.J. Reports 2007 (I)*, p. 659), a summary of which is given below, followed by the operative clause:

Chronology of the procedure and submissions of the Parties (paras. 1-19)

The Court recites the history of the proceedings and submissions of the Parties in the case.

Geography (paras. 20-32)

The Court notes that the area within which the delimitation sought is to be carried out lies in the basin of the Atlantic Ocean between 9° to 22° N and 89° to 60° W, commonly known as the Caribbean Sea. The Nicaraguan coast runs slightly west of south after Cape Gracias a Dios all the way to the Nicaraguan border with Costa Rica except for the eastward protrusion at Punta Gorda. The Honduran coast, for its part, runs generally in an east-west direction between the parallels 15° to 16° of North latitude. The Honduran segment of the Central American coast along the Caribbean continues its northward extension beyond Cape Gracias a Dios to Cape Falso where it begins to swing towards the west. At Cape Camarón the coast turns more sharply so that it runs almost due west all the way to the Honduran border with Guatemala. The two coastlines roughly form a right angle that juts out to sea. The convexity of the coast is compounded by the cape formed at the mouth of the River Coco, which generally runs east as it nears the coast and meets the sea at the eastern tip of Cape Gracias a Dios. Cape Gracias a Dios marks the point of convergence of both States' coastlines. It abuts a concave coastline on its sides and has two points, one on each side of the margin of the River Coco separated by a few hundred metres.

The continental margin off the east coast of Nicaragua and Honduras is generally termed the "Nicaraguan Rise". It takes the form of a relatively flat triangular shaped platform, with depths around 20 m. Approximately midway between the coast of those countries and the coast of Jamaica, the Nicaraguan Rise terminates by deepening abruptly to depths of over 1,500 m. Before descending to these greater depths the Rise is broken into several large banks, such as Thunder Knoll Bank and Rosalind Bank (also known as Rosalinda Bank) that are separated from the main platform by deeper channels of over 200 m. In the shallow area of the ridge close to the mainland of Nicaragua and Honduras there are numerous reefs, some of which reach above the water surface in the form of cays.

Cays are small, low islands composed largely of sand derived from the physical breakdown of coral reefs by wave action and subsequent reworking by wind. Larger cays can accumulate enough sediment to allow for colonization and fixation by vegetation. The insular features present on the continental shelf in front of Cape Gracias a Dios, to the north of the 15th parallel, include Bobel Cay, Savanna Cay, Port Royal Cay and South Cay, located between 30 and 40 nautical miles east of the mouth of the River Coco.

With regard to the geomorphology of the mouth of the River Coco, the longest river of the Central American isthmus, the Court notes that it is a typical delta which forms a protrusion of the coastline forming a cape: Cape Gracias a Dios. All deltas are by definition geographical accidents of an unstable nature. Both the delta of the River Coco and even the coastline north and south of it show a very active morphodynamism. The result is that the river mouth is constantly changing its shape, and unstable islands and shoals form in the mouth where the river deposits much of its sediment.

Historical background (paras. 33-71)

The Court gives a brief account of the history which forms the background of the dispute between the Parties (only parts of which are referred to below).

It notes that upon gaining independence from Spain in 1821, Nicaragua and Honduras obtained sovereignty over their respective territory including adjacent islands along their coasts, without these islands being identified by name. On 7 October 1894 Nicaragua and Honduras successfully concluded a general boundary treaty known as the Gámez Bonilla Treaty which entered into force on 26 December 1896. Article II of the Treaty, according to the principle of *uti possidetis juris*, provided that "each Republic is owner of the territory which at the date of independence constituted respectively, the provinces of Honduras and Nicaragua". Article I of the Treaty further provided for the establishment of a Mixed

Boundary Commission to demarcate the boundary between Nicaragua and Honduras. The Commission fixed the boundary from the Pacific Ocean at the Gulf of Fonseca to the Portillo de Teotecacinte, which is located approximately one third of the way across the land territory, but it was unable to determine the boundary from that point to the Atlantic coast.

Pursuant to the terms of Article III of the Gámez-Bonilla Treaty, Nicaragua and Honduras subsequently submitted their dispute over the remaining portion of the boundary to the King of Spain as sole arbitrator. King Alfonso XIII of Spain handed down an Arbitral Award on 23 December 1906, which drew a boundary from the mouth of the River Coco at Cape Gracias a Dios to Portillo de Teotecacinte. Nicaragua subsequently challenged the validity and binding character of the Arbitral Award in a Note dated 19 March 1912. After several failed attempts to settle this dispute and a number of boundary incidents in 1957, the Council of the Organization of American States (OAS) took up the issue that same year. Through the mediation of an *ad hoc* Committee established by the Council of the OAS, Nicaragua and Honduras agreed to submit their dispute to the International Court of Justice.

In its Judgment of 18 November 1960, the International Court of Justice found that the Award made by the King of Spain on 23 December 1906 was valid and binding and that Nicaragua was under an obligation to give effect to it.

As Nicaragua and Honduras could not thereafter agree on how to implement the 1906 Arbitral Award, Nicaragua requested the intervention of the Inter-American Peace Committee. The Committee subsequently established a Mixed Commission which completed the demarcation of the boundary line with the placement of boundary markers in 1962. The Mixed Commission determined that the land boundary would begin at the mouth of the River Coco, at 14° 59.8′ N latitude and 83° 08.9′ W longitude.

From 1963 to 1979, Honduras and Nicaragua enjoyed friendly relations. In 1977 Nicaragua initiated negotiations on matters relating to the maritime boundary in the Caribbean. However these negotiations made no progress. In the period that followed relations between the two countries deteriorated. Numerous incidents involving the capture and/or attack by each State of fishing vessels belonging to the other State in the vicinity of the 15th parallel were recorded in a series of diplomatic exchanges. Several mixed commissions were established with a view to finding a resolution to the situation but were unsuccessful in their attempts.

On 29 November 1999, Nicaragua filed an Application instituting proceedings against Honduras as well as a request for the indication of provisional measures before the Central American Court of Justice. This followed Honduras's expressed intention to ratify a 1986 Treaty on maritime delimitation with Colombia in which the parallel 14° 59′ 08″ to the east of the 82nd meridian is given as the boundary line between Honduras and Colombia. In its Application, Nicaragua asked the Central

American Court of Justice to declare that Honduras, by proceeding to the approval and ratification of the 1986 Treaty, was acting in violation of certain legal instruments of regional integration, including the Tegucigalpa Protocol to the Charter of the Organization of Central American States. In its request for the indication of provisional measures, Nicaragua asked the Central American Court of Justice to order Honduras to abstain from approving and ratifying the 1986 Treaty, until the sovereign interests of Nicaragua in its maritime spaces, the patrimonial interests of Central America and the highest interests of the regional institutions had been "safeguarded". By Order of 30 November 1999 the Central American Court of Justice ruled that Honduras suspend the procedure of ratification of the 1986 Treaty pending the determination of the merits in the case.

Honduras and Colombia continued the ratification process and on 20 December 1999 exchanged instruments of ratification. On 7 January 2000, Nicaragua made a further request for the indication of provisional measures asking the Central American Court of Justice to declare the nullity of Honduras's process of ratification of the 1986 Treaty. By Order of 17 January 2000, the Central American Court of Justice ruled that Honduras had not complied with its Order on provisional measures dated 30 November 1999 but considered that it did not have jurisdiction to rule on the request made by Nicaragua to declare the nullity of Honduras's ratification process. In its judgment on the merits, on 27 November 2001 the Central American Court of Justice confirmed the existence of a "territorial patrimony of Central America". It further held that, by having ratified the 1986 Treaty, Honduras had infringed a number of provisions of the Tegucigalpa Protocol to the Charter of the Organization of Central American States, which set out, *inter alia*, the fundamental objectives and principles of the Central American Integration System, including the concept of the "territorial patrimony of Central America".

Throughout the 1990s several diplomatic Notes were also exchanged with regard to the Parties' publication of maps concerning the area in dispute.

Positions of the Parties (paras. 72-103)

Subject-matter of the dispute

In its Application and written pleadings Nicaragua asked the Court to determine the course of the single maritime boundary between the areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras in the Caribbean Sea. Nicaragua states that it has consistently maintained the position that its maritime boundary with Honduras in the Caribbean Sea has not been delimited. During the oral proceedings, Nicaragua also made a specific request that the Court pronounce on sovereignty over islands located in the disputed area to the north of the boundary line claimed by Honduras running along the 15th parallel (14° 59.08′ N latitude).

According to Honduras, there already exists in the Caribbean Sea a traditionally recognized boundary between the maritime spaces of Honduras and Nicaragua "which has its origins in the principle of *uti possidetis juris* and which is firmly rooted in the practice of both Honduras and Nicaragua and confirmed by the practice of third States". Honduras agrees that the Court should "determine the location of a single maritime boundary" and asks the Court to trace it following the "traditional maritime boundary" along the 15th parallel "until the jurisdiction of a third State is reached". During the oral proceedings Honduras also asked the Court to adjudge that

> "[t]he islands Bobel Cay, South Cay, Savanna Cay and Port Royal Cay, together with all other islands, cays, rocks, banks and reefs claimed by Nicaragua which lie north of the 15th parallel are under the sovereignty of the Republic of Honduras".

For the claims of the Parties, see sketch-map No. 2 on page 237 below.

Sovereignty over the islands in the area in dispute

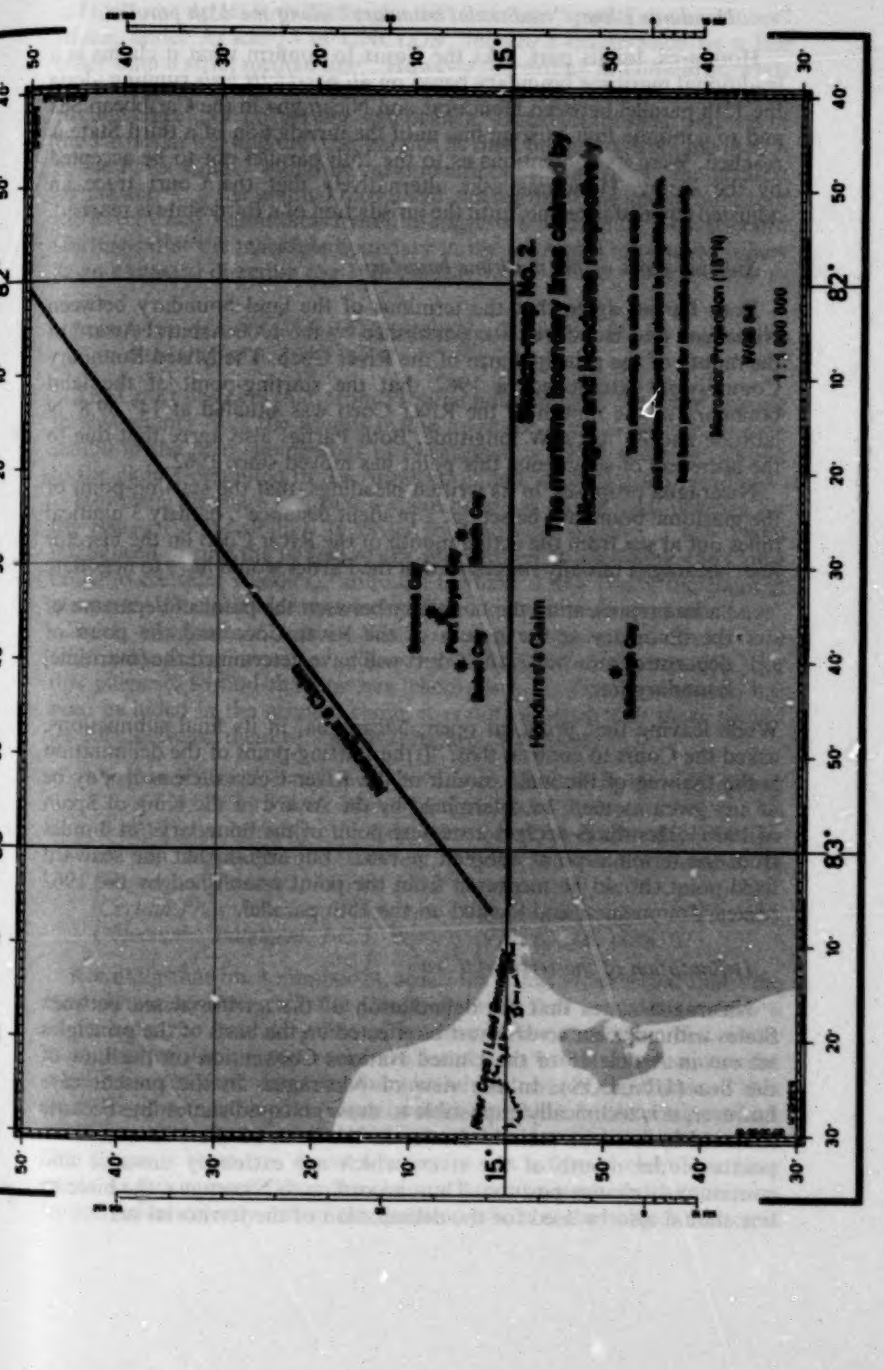
Nicaragua claims sovereignty over the islands and cays in the disputed area of the Caribbean Sea to the north of the 15th parallel, including Bobel Cay, Savanna Cay, Port Royal Cay and South Cay. Honduras claims sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay, in addition to claiming title over other smaller islands and cays lying in the same area.

Both States agree that none of the islands and cays in dispute were *terra nullius* upon independence in 1821. However the Parties disagree on the situation thereafter. Nicaragua asserts that these features were not assigned to either of the Republics and that it is impossible to establish the *uti possidetis juris* situation of 1821 with respect to the cays. It concludes that recourse must be had to "other titles" and in particular, contends that it holds original title over the cays under the principle of adjacency. Honduras, for its part, claims that it has an original title over the disputed islands from the doctrine of *uti possidetis juris* and that its title is confirmed by many *effectivités*.

Maritime delimitation beyond the territorial sea

Nicaragua's line: bisector method

The Court notes that Nicaragua proposes a method of delimitation consisting of "the bisector of the angle produced by constructing lines based upon the respective coastal frontages and producing extensions of these lines". Such a bisector is calculated from the general direction of the Nicaraguan coast and the general direction of the Honduran coast. These coastal fronts generate a bisector which runs from the mouth of the River Coco as a line of constant bearing (azimuth 52° 45′ 21″) until intersecting with the boundary of a third State in the vicinity of Rosalind Bank.


Nicaragua's Claim
Honduras's Claim
Savanna Cay
Port Royal Cay
Bobel Cay
South Cay
Edinburgh Cay
River Coco / Land Boundary
15°
82°
83°
10'
20'
30'
40'
50'

Sketch-map No. 2.
The maritime boundary lines claimed by Nicaragua and Honduras respectively

This sketch-map, on which coastal areas and maritime features are shown in simplified form, has been prepared for illustrative purposes only.

Mercator Projection (15°N)

WGS 84

1 : 1 000 000

Honduras's line: "traditional boundary" along the 15th parallel

Honduras, for its part, asks the Court to confirm what it claims is a traditional maritime boundary based on *uti possidetis juris* running along the 15th parallel between Honduras and Nicaragua in the Caribbean Sea and to continue that existing line until the jurisdiction of a third State is reached. Were its contentions as to the 15th parallel not to be accepted by the Court, Honduras asks alternatively that the Court trace an adjusted equidistance line, until the jurisdiction of a third State is reached.

Starting-point of the maritime boundary

Both Parties agree that the terminus of the land boundary between Nicaragua and Honduras was established by the 1906 Arbitral Award at the mouth of the principal arm of the River Coco. The Mixed Boundary Commission determined in 1962 that the starting-point of the land boundary at the mouth of the River Coco was situated at 14° 59.8′ N latitude and 83° 08.9′ W longitude. Both Parties also agree that due to the accretion of sediments, this point has moved since 1962.

Nicaragua proposes, in its written pleadings, that the starting-point of the maritime boundary be set "at a prudent distance", namely 3 nautical miles out at sea from the actual mouth of the River Coco on the bisector line. Nicaragua initially suggested that the Parties would have to negotiate

> "a line representing the boundary between the point of departure of the boundary at the mouth of the River Coco and the point of departure from which the Court will have determined the [maritime] boundary line".

While leaving that proposal open, Nicaragua, in its final submissions, asked the Court to confirm that: "[t]he starting-point of the delimitation is the thalweg of the main mouth of the River Coco such as it may be at any given moment as determined by the Award of the King of Spain of 1906". Honduras accepts a starting-point of the boundary "at 3 miles from the terminal point adopted in 1962" but argues that the seaward fixed-point should be measured from the point established by the 1962 Mixed Commission and located on the 15th parallel.

Delimitation of the territorial sea

Nicaragua states that the delimitation of the territorial sea between States with adjacent coasts must be effected on the basis of the principles set out in Article 15 of the United Nations Convention on the Law of the Sea (UNCLOS). In the view of Nicaragua, in the present case however, it is technically impossible to draw an equidistance line because it would have to be entirely drawn on the basis of the two outermost points of the mouth of the river, which are extremely unstable and continuously change position. Thus, according to Nicaragua, the bisector line should also be used for the delimitation of the territorial sea.

Honduras agrees with Nicaragua that there are "special circumstances" which, under Article 15 of UNCLOS "require a delimitation by a line other than a strict median line". However, according to Honduras, while the configuration of the continental land mass may be one such "special circumstance", of far greater significance "is the established practice of the Parties in treating the 15th parallel as their boundary from the mouth of the River Coco". Honduras also identifies as a factor of "the greatest significance . . . the gradual movement eastwards of the actual mouth of the River Coco". Honduras therefore suggests that from the fixed seaward starting-point the maritime boundary in the territorial sea should follow in an eastward direction the 15th parallel.

Admissibility of the new claim to sovereignty over the islands in the area in dispute (paras. 104-116)

The Court observes that, from a formal point of view, the claim relating to sovereignty over the islands in the maritime area in dispute, as presented in the final submissions of Nicaragua, is a new claim in relation to the claims presented in the Application and in the written pleadings.

However, the mere fact that a claim is new is not in itself decisive for the issue of admissibility. In order to determine whether a new claim introduced during the course of the proceedings is admissible the Court needs to consider whether, "although formally a new claim, the claim in question can be considered as included in the original claim in substance" (*Certain Phosphate Lands in Nauru (Nauru* v. *Australia), Preliminary Objections, Judgment, I.C.J. Reports 1992*, pp. 265-266, para. 65). For this purpose, to find that the new claim, as a matter of substance, has been included in the original claim, it is not sufficient that there should be links between them of a general nature. Moreover,

> "[a]n additional claim must have been implicit in the application (*Temple of Preah Vihear, Merits, Judgment, I.C.J. Reports 1962*, p. 36) or must arise 'directly out of the question which is the subject-matter of that Application' (*Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland), Merits, I.C.J. Reports 1974*, p. 203, para. 72)" (*Certain Phosphate Lands in Nauru (Nauru* v. *Australia), Preliminary Objections, Judgment, I.C.J. Reports 1992*, p. 266, para. 67).

Recalling that on a number of occasions it has emphasized that "the land dominates the sea", the Court observes that in order to draw a single maritime boundary line in an area of the Caribbean Sea where a number of islands and rocks are located, it would have to consider what influence these maritime features might have on the course of that line. To plot that line the Court would first have to determine which State has sovereignty over the islands and rocks in the disputed area. The Court is bound to do so whether or not a formal claim has been made in this respect. Thus the claim relating to sovereignty is implicit in and arises directly out of the question which is the subject-matter of

Nicaragua's Application, namely the delimitation of the disputed areas of the territorial sea, continental shelf and exclusive economic zone.

The Court thus concludes that the Nicaraguan claim relating to sovereignty over the islands in the maritime area in dispute is admissible as it is inherent in the original claim relating to the maritime delimitation between Nicaragua and Honduras in the Caribbean Sea.

The critical date (paras. 117-131)

The Court recalls that, in the context of a maritime delimitation dispute or of a dispute related to sovereignty over land, the significance of a critical date lies in distinguishing between those acts performed *à titre de souverain* which are in principle relevant for the purpose of assessing and validating *effectivités*, and those acts occurring after such critical date, which are in general meaningless for that purpose, having been carried out by a State which, already having claims to assert in a legal dispute, could have taken those actions strictly with the aim of buttressing those claims. Thus a critical date will be the dividing line after which the Parties' acts become irrelevant for the purposes of assessing the value of *effectivités*.

Honduras contends that there are two disputes, albeit related: one as to whether Nicaragua or Honduras has title to the disputed islands; and the other as to whether the 15th parallel represents the current maritime frontier between the Parties. Nicaragua perceives it as a single dispute.

Honduras observes that in respect of the dispute concerning sovereignty over the maritime features in the disputed area there "may be more than one critical date". Thus, "[t]o the extent that the issue of title turns on the application of *uti possidetis*", the critical date would be 1821 – the date of independence of Honduras and Nicaragua from Spain. For the purposes of post-colonial *effectivités*, Honduras argues that the critical date cannot be "earlier than the date of the filing of the Memorial – 21 March 2001 – since this was the first time that Nicaragua asserted that it had title to the islands". With regard to the dispute over the maritime boundary, Honduras maintains that 1979, when the Sandinista Government came to power, constitutes the critical date, as up to that date "Nicaragua never showed the slightest interest in the cays and islands north of the 15th parallel".

For Nicaragua, the critical date is 1977, when the Parties initiated negotiations on maritime delimitation, following an exchange of letters by the two Governments. Nicaragua asserts that the dispute over the maritime boundary, by implication, encompasses the dispute over the islands within the relevant area and therefore the critical date for both disputes coincides.

Having examined the arguments of the Parties, the Court considers that in cases where there exist two interrelated disputes, as in the present case, there is not necessarily a single critical date and that date may be different in the two disputes. For these reasons, the Court finds it necessary to distinguish two different critical dates which are to be applied to two different circumstances. One critical date concerns the attribution of sovereignty over the islands to one of the two contending States. The other critical date is related to the issue of delimitation of the disputed maritime area.

With regard to the dispute over the islands, the Court considers 2001 as the critical date, since it was only in its Memorial filed in 2001 that Nicaragua expressly reserved "the sovereign rights appurtenant to all the islets and rocks claimed by Nicaragua in the disputed area".

With regard to the dispute over the delimitation line, the Court finds that it is from the time of two incidents involving the capture of fishing vessels in March 1982 and eliciting a diplomatic exchange between the Parties that a dispute as to the maritime delimitation could be said to exist.

Sovereignty over the islands (paras. 132-227)

The maritime features in the area in dispute

In assessing the legal nature of the land features in the disputed area the Court notes that the Parties do not dispute the fact that Bobel Cay, Savanna Cay, Port Royal Cay and South Cay remain above water at high tide. They thus fall within the definition and régime of islands under Article 121 of UNCLOS (to which Nicaragua and Honduras are both parties).

With the exception of these four islands, the Court states that there seems to be an insufficiency in the information it would require in order to identify a number of the other maritime features in the disputed area. In this regard little assistance was provided in the written and oral procedures to define with the necessary precision the other "features" in respect of which the Parties asked the Court to decide the question of territorial sovereignty.

The Court notes that during the proceedings, two other cays were mentioned: Logwood Cay (also called Palo de Campeche) and Media Luna Cay. In response to a question put by a judge *ad hoc*, the Parties have stated that Media Luna Cay is now submerged and thus that it is no longer an island. Uncertainty prevails in the case of Logwood Cay's current condition: according to Honduras it remains above water (though only slightly) at high tide; according to Nicaragua, it is completely submerged at high tide.

Given all these circumstances, the Court regards it as appropriate to pronounce only upon the question of sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay.

A claim was also made during the oral proceedings by each Party to an island in an entirely different location, namely, the island in the mouth of the River Coco. For the last century the unstable nature of the river mouth has meant that larger islands are liable to join their nearer bank and the future of smaller islands is uncertain. Because of the changing conditions of the area, the Court makes no finding as to sovereign title over islands in the mouth of the River Coco.

The uti possidetis juris *principle and sovereignty over the islands in dispute*

The Court observes that the principle of *uti possidetis juris* has been relied on by Honduras as the basis of sovereignty over the islands in dispute. This is contested by Nicaragua which asserts that sovereignty over the islands cannot be attributed to one or the other Party on the basis of this principle.

The Court notes that it has recognized that "the principle of *uti possidetis* has kept its place among the most important legal principles' regarding territorial title and boundary delimitation at the moment of decolonization (*Frontier Dispute (Burkina Faso/Republic of Mali), Judgment, I.C.J. Reports 1986*, p. 567, para. 26). It states that it is beyond doubt that the principle is applicable to the question of territorial delimitation between Nicaragua and Honduras, both former Spanish colonial provinces. During the nineteenth century, negotiations aimed at determining the territorial boundary between Nicaragua and Honduras culminated in the conclusion of the Gámez-Bonilla Treaty of 7 October 1894, in which both States agreed in Article II, paragraph 3, that "each Republic [was] owner of the territory which at the date of independence constituted, respectively, the provinces of Honduras and Nicaragua". The terms of the Award of the King of Spain of 1906, based specifically on the principle of *uti possidetis juris* as established in Article II, paragraph 3, of the Gámez-Bonilla Treaty, defined the territorial boundary between the two countries with regard to the disputed portions of land, i.e., from Portillo de Teotecacinte to the Atlantic Coast. The validity and binding force of the 1906 Award have been confirmed by the International Court of Justice in its 1960 Judgment and both Parties to the dispute accept the Award as legally binding.

Turning to the question of sovereignty over the islands, the Court begins by observing that *uti possidetis juris* may, in principle, apply to offshore possessions and maritime spaces. It observes that the mere invocation of the principle does not of itself provide a clear answer as to sovereignty over the disputed islands. If the islands are not *terra nullius*, as both Parties acknowledge and as is generally recognized, it must be assumed that they had been under the rule of the Spanish Crown. However, it does not necessarily follow that the successor to the disputed islands could only be Honduras, being the only State formally to have claimed such status. The Court recalls that *uti possidetis juris* presupposes the existence of a delimitation of territory between the colonial provinces concerned having been effected by the central colonial authorities. Thus in order to apply the principle of *uti possidetis juris* to the islands in dispute it must be shown that the Spanish Crown had allocated them to one or the other of its colonial provinces.

The Court looks for convincing evidence which would allow it to determine whether and to which of the colonial provinces of the former Spanish America the islands had been attributed.

It states that the Parties have not produced documentary or other evidence from the pre-independence era which explicitly refers to the islands. The Court also observes that proximity as such is not necessarily determinative of legal title. The information provided by the Parties on the colonial administration of Central America by Spain does not allow for certainty as to whether one entity (the Captaincy-General of Guatemala), or two subordinate entities (the Government of Honduras and the General Command of Nicaragua), exercised administration over the insular territories of Honduras and Nicaragua at that time. Unlike the land territory where the administrative boundary between different provinces was more or less clearly demarcated, it is apparent that there was no clear-cut demarcation with regard to islands in general. This seems all the more so with regard to the islands in question, since they must have been scarcely inhabited, if at all, and possessed no natural resources to speak of for exploitation, except for fishing in the surrounding maritime area. The Court also observes that the Captaincy-General of Guatemala may well have had control over land and insular territories adjacent to coasts in order to provide security, prevent smuggling and undertake other measures to ensure the protection of the interests of the Spanish Crown. However there is no evidence to suggest that the islands in question played any role in the fulfilment of any of these strategic aims.

Notwithstanding the historical and continuing importance of the *uti possidetis juris* principle, so closely associated with Latin American decolonization, it cannot in this case be said that the application of this principle to these small islands, located considerably offshore and not obviously adjacent to the mainland coast of Nicaragua or Honduras, would settle the issue of sovereignty over them.

With regard to the adjacency argument put forward by Nicaragua, the Court notes that the independence treaties concluded by Nicaragua and Honduras with Spain in 1850 and 1866 respectively refer to adjacency with respect to mainland coasts rather than to offshore islands. Nicaragua's argument that the islands in dispute are closer to Edinburgh Cay, which belongs to Nicaragua, cannot therefore be accepted. While the Court does not rely on adjacency in reaching its findings, it observes that, in any event, the islands in dispute appear to be in fact closer to the coast of Honduras than to the coast of Nicaragua.

Having concluded that the question of sovereignty over the islands in dispute cannot be resolved on the above basis, the Court then ascertains whether there were relevant *effectivités* during the colonial period. This test of "colonial *effectivités*" has been defined as "the conduct of the administrative authorities as proof of the effective exercise of territorial jurisdiction in the region during the colonial period" (***Frontier Dispute (Burkina Faso/Republic of Mali), Judgment, I.C.J. Reports 1986***, p. 586, para. 63; ***Frontier Dispute (Benin/Niger), Judgment, I.C.J. Reports 2005***, p. 120, para. 47).

The Court notes that information about such conduct by the colonial administrative authorities is lacking in the case. It considers that, given the location of the disputed islands and the lack of any particular economic or strategic significance of these islands at the time, there were no colonial *effectivités* in relation to them. Thus the Court can neither found nor confirm on this basis a title to territory over the islands in question.

In light of the above considerations the Court concludes that the principle of *uti possidetis* affords inadequate assistance in determining sovereignty over the islands because nothing clearly indicates whether they were attributed to the colonial provinces of Nicaragua or of Honduras prior to or upon independence. Neither can such attribution be discerned in the King of Spain's Arbitral Award of 1906. Equally, the Court has been presented with no evidence as to colonial *effectivités* in respect of these islands. Thus it has not been established that either Honduras or Nicaragua had title to these islands by virtue of *uti possidetis*.

Post-colonial effectivités *and sovereignty over the disputed islands*

The Court first notes that according to its jurisprudence (in particular the *Indonesia/Malaysia* case) and that of the Permanent Court of International Justice, sovereignty over minor maritime features, such as the islands in dispute between Honduras and Nicaragua, may be established on the basis of a relatively modest display of State powers in terms of quality and quantity.

It then examines the different categories of *effectivités* presented by the Parties.

Concerning the category of *legislative and administrative control*, the Court, noting that there is no reference to the four islands in dispute in the various Honduran Constitutions and in the Agrarian Law, further notes that there is no evidence that Honduras applied these legal instruments to the islands in any specific manner. The Court therefore finds that the Honduran claim that it had legislative and administrative control over the islands is not convincing.

Concerning the *application and enforcement of criminal and civil law*, the Court is of the opinion that the evidence provided by Honduras does have legal significance. The fact that a number of the acts mentioned (*inter alia* criminal complaints of theft and physical assault on Savanna and Bobel Cays, as well as a 1993 drug enforcement operation in the area by Honduras authorities and the United States Drug Enforcement Administration (DEA)) occurred in the 1990s is no obstacle to their relevance as the Court has found the critical date in relation to the islands to be 2001. The criminal complaints have relevance because the criminal acts occurred on the islands in dispute. The 1993 drug enforcement operation, while not necessarily an example of the application and enforcement of Honduran criminal law, can well be considered as an authorization by Honduras to the United States DEA granting it the right to fly over the islands mentioned in the document, which are within the disputed area. The permit extended by Honduras to the DEA to overfly the "national air space", together with the specific mention of the four islands and cays, may be understood as a sovereign act by a State, amounting to a relevant *effectivité* in the area.

Concerning the *regulation of immigration*, the Court notes that there appears to have been substantial activity with regard to immigration and work-permit related regulation by Honduras of persons on the islands in 1999 and 2000. In 1999 Honduran authorities visited the four islands and recorded the details of the foreigners living in South Cay, Port Royal Cay and Savanna Cay (Bobel Cay was uninhabited at the time, though it had previously been inhabited). Honduras provides a statement by a Honduran immigration officer who visited the islands three or four times from 1997 to 1999. The Court finds that legal significance is to be attached to the evidence provided by Honduras on the regulation of immigration as proof of *effectivités*, notwithstanding that it began only in the late 1990s. The issuance of work permits and visas to Jamaican and Nicaraguan nationals exhibit a regulatory power on the part of Honduras. The visits to the islands by a Honduran immigration officer entail the exercise of jurisdictional authority, even if its purpose was to monitor rather than to regulate immigration on the islands. The time span for these acts of sovereignty is rather short, but then it is only Honduras which has undertaken measures in the area that can be regarded as acts performed *à titre de souverain*. There is no contention by Nicaragua of regulation by itself of immigration on the islands either before or after the 1990s.

Concerning the *regulation of fisheries activities*, the Court is of the view that the Honduran authorities issued fishing permits with the belief that they had a legal entitlement to the maritime areas around the islands, derived from Honduran title over those islands. The evidence of Honduran-regulated fishing boats and construction on the islands is also legally relevant for the Court under the category of administrative and legislative control. The Court considers that the permits issued by the Honduran Government allowing the construction of houses in Savanna Cay and the permit for the storage of fishing equipment in the same cay provided by the municipality of Puerto Lempira may also be regarded as a display, albeit modest, of the exercise of authority, and as evidence of *effectivités* with respect to the disputed islands. The Court does not find persuasive Nicaragua's argument that the negotiations between Nicaragua and the United Kingdom in the 1950s over renewed turtle fishing rights off the Nicaraguan coast attests to Nicaraguan sovereignty over the islands in dispute.

Concerning *naval patrols*, the Court recalls that it has already indicated that the critical date for the purposes of the issue of title to the islands is not 1977 but 2001. The evidence put forward by both Parties on naval patrolling is sparse and does not clearly entail a direct relationship between either Nicaragua or Honduras and the islands in dispute. Thus the Court does not find the evidence provided by either Party on naval patrols persuasive as to the existence of *effectivités* with respect to the islands.

Concerning *oil concessions*, the Court finds that the evidence relating to the offshore oil exploration activities of the Parties has no bearing on the islands in dispute. It will therefore concentrate on the oil concession related acts on the islands under the category of public works.

Concerning *public works*, the Court observes that the placing on Bobel Cay in 1975 of a 10 m long antenna by Geophysical Services Inc. for the Union Oil Company was part of a local geodetic network to assist in drilling activities in the context of oil concessions granted. Honduras claims that the construction of the antenna was an integral part of the "oil exploration activity authorized by Honduras". Reports on these activities were periodically submitted by the oil company to the Honduran authorities, in which the amount of the corresponding taxes paid was also indicated. Nicaragua claims that the placement of the antenna on Bobel Cay was a private act for which no specific governmental authorization was granted. The Court is of the view that the antenna was erected in the context of authorized oil exploration activities. Furthermore the payment of taxes in respect of such activities in general can be considered additional evidence that the placement of the antenna was done with governmental authorization. The Court thus considers that the public works referred to by Honduras constitute *effectivités* which support Honduran sovereignty over the islands in dispute.

Having considered the arguments and evidence put forward by the Parties, the Court finds that the *effectivités* invoked by Honduras evidenced an "intention and will to act as sovereign" and constitute a modest but real display of authority over the four islands. Although it has not been established that the four islands are of economic or strategic importance and in spite of the scarcity of acts of State authority, Honduras has shown a sufficient overall pattern of conduct to demonstrate its intention to act as sovereign in respect of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay. The Court further notes that those Honduran activities qualifying as *effectivités* which can be assumed to have come to the knowledge of Nicaragua did not elicit any protest on the part of the latter. With regard to Nicaragua, the Court has found no proof of intention or will to act as sovereign, and no proof of any actual exercise or display of authority over the islands.

Evidentiary value of maps in confirming sovereignty over the disputed islands

The Court notes that a large number of maps were presented by the Parties to illustrate their respective arguments, but that none of the maps which include some of the islands in dispute clearly specify which State is the one exercising sovereignty over those islands. Furthermore, none of the maps being part of a legal instrument in force nor more specifically part of a boundary treaty concluded between Nicaragua and Honduras, the Court concludes that the cartographic material presented by the

Parties cannot of itself support their respective claims to sovereignty over islands to the north of the 15th parallel.

Recognition by third States and bilateral treaties; the 1998 Free Trade Agreement

In the Court's view there is no evidence to support any of the contentions made by the Parties with respect to recognition by third States that sovereignty over the disputed islands is vested in Honduras or in Nicaragua. Some of the evidence offered by the Parties shows episodic incidents that are neither consistent nor consecutive. It is obvious that they do not signify an explicit acknowledgment of sovereignty, nor were they meant to imply any such acknowledgment. The Court observes that bilateral treaties of Colombia, one with Honduras and one with Jamaica, have been invoked by Honduras as proof of recognition of sovereignty over the disputed islands. The Court notes that in relation to these treaties Nicaragua never acquiesced in any understanding that Honduras had sovereignty over the disputed islands. The Court does not find these bilateral treaties relevant as regards recognition by a third party of title over the disputed islands.

The Court recalls that during the oral proceedings it was apprised of the negotiating history of a Free Trade Agreement Central America-Dominican Republic which was signed on 16 April 1998 in Santo Domingo by Nicaragua, Honduras, Costa Rica, Guatemala, El Salvador and the Dominican Republic. According to Honduras the original text of the Agreement included an Annex to Article 2.01 giving a definition of the territory of Honduras, which referred *inter alia* to Palo de Campeche and Media Luna Cays. Honduras claims that the term "Media Luna" was "frequently used to refer to the entire group of islands and cays" in the area in dispute. Nicaragua points out that during the ratification process, its National Assembly approved a revised text of the Free Trade Agreement which did not contain the Annex to Article 2.01. Having examined said Annex, the Court observes that the four islands in dispute are not mentioned by name in it. Moreover, the Court notes that it has not been presented with any convincing evidence that the term "Media Luna" has the meaning advanced by Honduras. In these circumstances the Court finds that it need not further examine arguments relating to this Treaty nor its status for the purposes of these proceedings.

Decision as to sovereignty over the islands

The Court, having examined all of the evidence related to the claims of the Parties as to sovereignty over the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay, including the issue of the evidentiary value of maps and the question of recognition by third States, concludes that Honduras has sovereignty over these islands on the basis of post-colonial *effectivités*.

Delimitation of maritime areas (paras. 228-320)

Traditional maritime boundary line claimed by Honduras

The principle of uti possidetis juris

The Court observes that the *uti possidetis juris* principle might in certain circumstances, such as in connection with historic bays and territorial seas, play a role in a maritime delimitation. However, in the present case, were the Court to accept Honduras's claim that Cape Gracias a Dios marked the separation of the respective maritime jurisdiction of the colonial provinces of Honduras and Nicaragua, no persuasive case has been made by Honduras as to why the maritime boundary should then extend from the Cape along the 15th parallel. It merely asserts that the Spanish Crown tended to use parallels and meridians to draw jurisdictional divisions, without presenting any evidence that the colonial Power did so in this particular case.

The Court thus cannot uphold Honduras's assertion that the *uti possidetis juris* principle provided for a maritime division along the 15th parallel "to at least 6 nautical miles from Cape Gracias a Dios" nor that the territorial sovereignty over the islands to the north of the 15th parallel on the basis of the *uti possidetis juris* principle "provides the traditional line which separates these Honduran islands from the Nicaraguan islands to the south" with "a rich historical basis that contributes to its legal foundation".

The Court further observes that Nicaragua and Honduras as new independent States were entitled by virtue of the *uti possidetis juris* principle to such mainland and insular territories and territorial seas which constituted their provinces at independence. The Court, however, has already found that it is not possible to determine sovereignty over the islands in question on the basis of the *uti possidetis juris* principle. Nor has it been shown that the Spanish Crown divided its maritime jurisdiction between the colonial provinces of Nicaragua and Honduras even within the limits of the territorial sea. Although it may be accepted that all States gained their independence with an entitlement to a territorial sea, that legal fact does not determine where the maritime boundary between adjacent seas of neighbouring States will run. In the circumstances of the present case, the *uti possidetis juris* principle cannot be said to have provided a basis for a maritime division along the 15th parallel.

The Court also notes that the 1906 Arbitral Award, which indeed was based on the *uti possidetis juris* principle, did not deal with the maritime delimitation between Nicaragua and Honduras and that it does not confirm a maritime boundary between them along the 15th parallel.

The Court thus finds that the contention of Honduras that the *uti possidetis juris* principle provides a basis for an alleged "traditional" maritime boundary along the 15th parallel cannot be sustained.

Tacit agreement

Having already indicated that there was no boundary established by reference to *uti possidetis juris*, the Court must determine whether, as claimed by Honduras, there was a tacit agreement sufficient to establish a boundary. Evidence of a tacit legal agreement must be compelling. The establishment of a permanent maritime boundary is a matter of grave importance and agreement is not easily to be presumed. A *de facto* line might in certain circumstances correspond to the existence of an agreed legal boundary or might be more in the nature of a provisional line or of a line for a specific, limited purpose, such as sharing a scarce resource. Even if there had been a provisional line found convenient for a period of time, this is to be distinguished from an international boundary.

As regards the evidence of oil concessions proffered by Honduras in support of its contention, the Court considers that Nicaragua, by leaving open the northern limit to its concessions or by abstaining from mentioning the boundary with Honduras in that connection, reserved its position concerning its maritime boundary with Honduras. Moreover, the Court observes that the Nicaraguan concessions provisionally extending up to the 15th parallel were all given after Honduras had granted its concessions extending southwards to the 15th parallel.

With regard to the 1986 Treaty between Colombia and Honduras and the 1993 Treaty between Colombia and Jamaica invoked by Honduras, the Court recalls that Nicaragua has maintained its persistent objections to these treaties. In the 1986 Treaty the parallel 14° 59′ 08″ to the east of the 82nd meridian serves as the boundary line between Honduras and Colombia. As already mentioned, according to Honduras the 1993 Treaty proceeds from a recognition of the validity of the 1986 Treaty between Colombia and Honduras, thereby recognizing Honduran jurisdiction over the waters and islands to the north of the 15th parallel.

The Court has noted that at periods in time, as the evidence shows, the 15th parallel appears to have had some relevance in the conduct of the Parties. This evidence relates to the period after 1961 when Nicaragua left areas to the north of Cape Gracias a Dios following the rendering of the Court's Judgment on the validity of the 1906 Arbitral Award and until 1977 when Nicaragua proposed negotiations with Honduras with the purpose of delimiting maritime areas in the Caribbean Sea. The Court observes that during this period several oil concessions were granted by the Parties which indicated that their northern and southern limits lay respectively at 14° 59.8′. Furthermore, regulation of fishing in the area at times seemed to suggest an understanding that the 15th parallel divided the respective fishing areas of the two States; and in addition the 15th parallel was also perceived by some fishermen as a line dividing maritime areas under the jurisdiction of Nicaragua and Honduras. However, these events, spanning a short period of time, are not sufficient for the Court to conclude that there was a legally established international maritime boundary between the two States.

The Court observes that the Note of the Honduran Minister for Foreign Affairs dated 3 May 1982 cited by the Parties (in which he concurred with the Nicaraguan Foreign Ministry that "the maritime border between Honduras and Nicaragua has not been legally delimited" and proposed that the Parties at least come to a "temporary" arrangement about the boundary so as to avoid further boundary incidents) is somewhat uncertain regarding the existence of an acknowledged boundary along the 15th parallel. The acknowledgment that there was then no legal delimitation "was not a proposal or a concession made during negotiations, but a statement of facts transmitted to the Foreign [Ministry, which] did not express any reservation in respect thereof" and should thus be taken "as evidence of the [Honduran] official view at that time".

Having reviewed all of this practice including diplomatic exchanges, the Court concludes that there was no tacit agreement in effect between the Parties in 1982 – nor *a fortiori* at any subsequent date – of a nature to establish a legally binding maritime boundary.

Determination of the maritime boundary

The Court, having found that there is no traditional boundary line along the 15th parallel, proceeds to the maritime delimitation between Nicaragua and Honduras.

Applicable law

Both Parties in their final submissions asked the Court to draw a "single maritime boundary" delimiting their respective territorial seas, exclusive economic zones, and continental shelves in the disputed area. Although Nicaragua was not party to UNCLOS at the time it filed the Application in this case, the Parties are in agreement that UNCLOS is now in force between them and that its relevant articles are applicable between them in this dispute.

Areas to be delimited and methodology

The "single maritime boundary" in the present case will be the result of the delimitation of the various areas of jurisdiction spanning the maritime zone from the Nicaragua-Honduras mainland out to at least the 82nd meridian, where third-State interests may become relevant. In the western reaches of the area to be delimited the Parties' mainland coasts are adjacent; thus, for some distance the boundary will delimit exclusively their territorial seas (UNCLOS, Art. 2, para. 1). Both Parties also accept that the four islands in dispute north of the 15th parallel (Bobel Cay, Savanna Cay, Port Royal Cay and South Cay), which have been attributed to Honduras, as well as Nicaragua's Edinburgh Cay south of the 15th parallel, are entitled to generate their own territorial seas for the coastal State. The Court recalls that as regards the islands in dispute no claim has been made by either Party for maritime areas other than the territorial sea.

The Court notes that, while the Parties disagree as to the appropriate breadth of these islands' territorial seas, according to Article 3 of UNCLOS, a State's territorial sea cannot extend beyond 12 nautical miles. These islands are all indisputably located within 24 miles of each other but more than 24 miles from the mainland that lies to the west. Thus the single maritime boundary might also include segments delimiting overlapping areas of the islands' opposite-facing territorial seas as well as segments delimiting the continental shelf and exclusive economic zones around them.

For the delimitation of the territorial seas, Article 15 of UNCLOS, which is binding as a treaty between the Parties, provides:

> "Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith."

As already indicated, the Court has determined that there is no existing "historic" or traditional line along the 15th parallel.

As the Court has observed with respect to implementing the provisions of Article 15 of UNCLOS: "The most logical and widely practised approach is first to draw provisionally an equidistance line and then to consider whether that line must be adjusted in the light of the existence of special circumstances." (*Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain), Merits, Judgment, I.C.J. Reports 2001*, p. 94, para. 176.)

The jurisprudence of the Court sets out the reasons why the equidistance method is widely used in the practice of maritime delimitation: it has a certain intrinsic value because of its scientific character and the relative ease with which it can be applied. However, the equidistance method does not automatically have priority over other methods of delimitation and, in particular circumstances, there may be factors which make the application of the equidistance method inappropriate.

The Court notes that neither Party has as its main argument a call for a provisional equidistance line as the most suitable method of delimitation.

It observes at the outset that both Parties have raised a number of geographical and legal considerations with regard to the method to be followed by the Court for the maritime delimitation. Cape Gracias a Dios, where the Nicaragua-Honduras land boundary ends, is a sharply convex territorial projection abutting a concave coastline on either side to the north and south-west. Taking into account Article 15 of UNCLOS and given the geographical configuration described above, the pair of base points to be identified on either bank of the River Coco at the tip of the Cape would assume a considerable dominance in constructing an equidistance line, especially as it travels out from the coast. Given the close proximity of these base points to each other, any variation or error *in situ*ating them would become disproportionately magnified in the resulting equidistance line. The Parties agree, moreover, that the sediment carried to and deposited at sea by the River Coco have caused its delta, as well as the coastline to the north and south of the Cape, to exhibit a very active morpho-dynamism. Thus continued accretion at the Cape might render any equidistance line so constructed today arbitrary and unreasonable in the near future. These geographical and geological difficulties are further exacerbated by the absence of viable base points claimed or accepted by the Parties themselves at Cape Gracias a Dios.

This difficulty in identifying reliable base points is compounded by the differences, addressed more fully, *infra*, that apparently still remain between the Parties as to the interpretation and application of the King of Spain's 1906 Arbitral Award in respect of sovereignty over the islets formed near the mouth of the River Coco and the establishment of "[t]he extreme common boundary point on the coast of the Atlantic" (*Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras* v. *Nicaragua), Judgment, I.C.J. Reports 1960*, p. 202).

Given the set of circumstances in the case it is impossible for the Court to identify base points and construct a provisional equidistance line for the single maritime boundary delimiting maritime areas off the Parties' mainland coasts. Even if the particular features already indicated make it impossible to draw an equidistance line as the single maritime frontier, the Court must nonetheless see if it would be possible to start the frontier line across the territorial seas as an equidistance line, as envisaged in Article 15 of UNCLOS. It may be argued that the problems associated with distortion, if the protrusions either side of Cape Gracias a Dios were used as base points, are less severe close to the coast. However, the Court notes first that the Parties are in disagreement as to title over the unstable islands having formed in the mouth of the River Coco, islands which the Parties suggested during the oral proceedings could be used as base points. It is recalled that because of the changing conditions of the area the Court has made no finding as to sovereignty over these islands. Moreover, whatever base points would be used for the drawing of an equidistance line, the configuration and unstable nature of the relevant coasts, including the disputed islands formed in the mouth of the River Coco, would make these base points (whether at Cape Gracias a Dios or elsewhere) uncertain within a short period of time.

Article 15 of UNCLOS itself envisages an exception to the drawing of a median line, namely "where it is necessary by reason of historic title or special circumstances . . .". Nothing in the wording of Article 15 suggests that geomorphological problems are per se precluded from being "special circumstances" within the meaning of the exception, nor that such "special circumstances" may only be used as a corrective element to a line already drawn. Indeed, the latter suggestion is plainly inconsistent with the wording of the exception described in Article 15. It is recalled that Article 15 of UNCLOS, which was adopted without any discussion as to the method of delimitation of the territorial sea, is virtually identical (save for minor editorial changes) to the text of Article 12, paragraph 1, of the 1958 Convention on the Territorial Sea and the Contiguous Zone.

The genesis of the text of Article 12 of the 1958 Convention on the Territorial Sea and the Contiguous Zone shows that it was indeed envisaged that a special configuration of the coast might require a different method of delimitation (see *Yearbook of the International Law Commission (YILC)*, 1952, Vol. II, p. 38, commentary, para. 4). Furthermore, the consideration of this matter in 1956 does not indicate otherwise. The terms of the exception to the general rule remained the same (*YILC*, 1956, Vol. I, p. 284; Vol. II, pp. 271, 272, and 300 where the Commentary to the Draft Convention on the Continental Shelf noted that "as in the case of the boundaries of the territorial sea, provision must be made for departures necessitated by any exceptional configuration of the coast . . ."). Additionally, the jurisprudence of the Court does not reveal an interpretation that is at variance with the ordinary meaning of the terms of Article 15 of UNCLOS.

For all of the above reasons, the Court finds itself within the exception provided for in Article 15 of UNCLOS, namely facing special circumstances in which it cannot apply the equidistance principle. At the same time equidistance remains the general rule.

Construction of a bisector line

Having reached the conclusion that the construction of an equidistance line from the mainland is not feasible, the Court must consider the applicability of the alternative methods put forward by the Parties.

Nicaragua's primary argument is that a "bisector of two lines representing the entire coastal front of both States" should be used to effect the delimitation from the mainland, while sovereignty over the maritime features in the area in dispute "could be attributed to either Party depending on the position of the feature involved with respect to the bisector line".

Honduras "does not deny that geometrical methods of delimitation, such as perpendiculars and bisectors, are methods that may produce equitable delimitations in some circumstances", but it disagrees with Nicaragua's construction of the angle to be bisected. Honduras, as already explained, advocates a line along the 15th parallel, no adjustment of which would be necessary in relation to the islands. The Court notes that in Honduras's final submissions it requested the Court to declare that the single maritime boundary between Honduras and Nicaragua "follows 14° 59.8′ N latitude, as the existing maritime boundary, or an adjusted equidistance line, until the jurisdiction of a third State is reached".

The Court recalls that both of Honduras's proposals (the main one based on tacit agreement as to the 15th parallel representing the maritime frontier and the other on the use of an adjusted equidistance line) have not been accepted by the Court.

It states that the use of a bisector – the line formed by bisecting the angle created by the linear approximations of coastlines – has proved to be a viable substitute method in certain circumstances where equidistance is not possible or appropriate. The justification for the application of the bisector method in maritime delimitation lies in the configuration of and relationship between the relevant coastal fronts and the maritime areas to be delimited. In instances where, as in the present case, any base points that could be determined by the Court are inherently unstable, the bisector method may be seen as an approximation of the equidistance method. Like equidistance, the bisector method is a geometrical approach that can be used to give legal effect to the

> "criterion long held to be as equitable as it is simple, namely that in principle, while having regard to the special circumstances of the case, one should aim at an equal division of areas where the maritime projections of the coasts of the States . . . converge and overlap" (*Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America), Judgment, I.C.J. Reports 1984*, p. 327, para. 195).

If it is to "be faithful to the actual geographical situation" (*Continental Shelf (Libyan Arab Jamahiriya/Malta), Judgment, I.C.J. Reports 1985*, p. 45, para. 57), the method of delimitation should seek a solution by reference first to the States' "relevant coasts" (see *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain), Judgment, I.C.J. Reports 2001*, p. 94 para. 178; see also the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening), I.C.J. Reports 2002*, p. 442, para. 90). Identifying the relevant coastal geography calls for the exercise of judgment in assessing the actual coastal geography. The equidistance method approximates the relationship between two parties' relevant coasts by taking account of the relationships between designated pairs of base points. The bisector method comparably seeks to approximate the relevant coastal relationships, but does so on the basis of the macro-geography of a coastline as represented by a line drawn between two points on the coast. Thus, where the bisector method is to be applied, care must be taken to avoid "completely refashioning nature" (*North Sea Continental Shelf (Denmark/Federal Republic of Germany; Federal Republic of Germany/Netherlands), Judgment, I.C.J. Reports 1969*, p. 49, para. 91).

The Court notes that, in the present case, the application of the bisector method is justified by the geographical configuration of the coast, and the geomorphological features of the area where the endpoint of the land boundary is located.

The Court considers for present purposes that it will be most convenient to use the point fixed in 1962 by the Mixed Commission at Cape Gracias a Dios as the point where the Parties' coastal fronts meet. The Court adds that the co-ordinates of the endpoints of the chosen coastal fronts need not at this juncture be specified with exactitude for present purposes; one of the practical advantages of the bisector method is that a minor deviation in the exact position of endpoints, which are at a reasonable distance from the shared point, will have only a relatively minor influence on the course of the entire coastal front line. If necessary in the circumstances, the Court could adjust the line so as to achieve an equitable result (see UNCLOS, Arts. 74, para. 1, and 83, para. 1).

The Court then considers the various possibilities for the coastal fronts that could be used to define these linear approximations of the relevant geography. Nicaragua's primary proposal for the coastal fronts, as running from Cape Gracias a Dios to the Guatemalan border for Honduras and to the Costa Rican border for Nicaragua, would cut off a significant portion of Honduran territory falling north of this line and thus would give significant weight to Honduran territory that is far removed from the area to be delimited. This would seem to present an exaggeratedly acute angle to bisect.

In selecting the relevant coastal fronts, the Court has considered the Cape Falso-Punta Gorda coast (generating a bisector with an azimuth of 70° 54′), which certainly faces the disputed area, but it is quite a short facade (some 100 km) from which to reflect a coastal front more than 100 nautical miles out to sea, especially taking into account how quickly to the north-west the Honduran coast turns away from the area to be delimited after Cape Falso, as it continues past Punta Patuca and up to Cape Camerón. Indeed, Cape Falso is identified by Honduras as the most relevant "turn" in the mainland coastline.

A coastal front extending from Cape Camerón to Rio Grande (generating a bisector with an azimuth of 64° 02′) would, like the original Nicaraguan proposal, also overcompensate in this regard since the line would run entirely over the Honduran mainland and thus would deprive the significant Honduran land mass lying between the sea and the line of any effect on the delimitation.

The front that extends from Punta Patuca to Wouhnta, would avoid the problem of cutting off Honduran territory and at the same time provides a coastal façade of sufficient length to account properly for the coastal configuration in the disputed area. Thus, a Honduran coastal front running to Punta Patuca and a Nicaraguan coastal front running to Wouhnta are in the Court's view the relevant coasts for purposes of drawing the bisector. This resulting bisector line has an azimuth of 70° 14′ 41.25″.

Delimitation around the islands

The Court notes that by virtue of Article 3 of UNCLOS Honduras has the right to establish the breadth of its territorial sea up to a limit of 12 nautical miles be that for its mainland or for islands under its sovereignty. In the current proceedings Honduras claims for the four islands in question a territorial sea of 12 nautical miles. The Court thus finds that, subject to any overlap between the territorial sea around Honduran islands and the territorial sea around Nicaraguan islands in the vicinity, Bobel Cay, Savanna Cay, Port Royal Cay and South Cay shall be accorded a territorial sea of 12 nautical miles.

As a 12-mile breadth of territorial sea has been accorded to these islands, it becomes apparent that the territorial seas attributed to the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua) would lead to an overlap in the territorial sea of Nicaragua and Honduras in this area, both to the south and to the north of the 15th parallel.

Drawing a provisional equidistance line for this territorial sea delimitation between the opposite-facing islands does not present the problems that would an equidistance line from the mainland. The Parties have provided the Court with co-ordinates for the four islands in dispute north of the 15th parallel and for Edinburgh Cay to the south. Delimitation of this relatively small area can be satisfactorily accomplished by drawing a provisional equidistance line, using co-ordinates for the above islands as the base points for their territorial seas, in the overlapping areas between the territorial seas of Bobel Cay, Port Royal Cay and South Cay (Honduras), and the territorial sea of Edinburgh Cay (Nicaragua), respectively. The territorial sea of Savanna Cay (Honduras) does not overlap with the territorial sea of Edinburgh Cay. The Court does not consider there to be any legally relevant "special circumstances" in this area that would warrant adjusting this provisional line.

The maritime boundary between Nicaragua and Honduras in the vicinity of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua) will thus follow the line as described below.

From the intersection of the bisector line with the 12-mile arc of the territorial sea of Bobel Cay at point A (with co-ordinates 15° 05′ 25″ N and 82° 52′ 54″ W) the boundary line follows the 12-mile arc of the territorial sea of Bobel Cay in a southerly direction until its intersection with the 12-mile arc of the territorial sea of Edinburgh Cay at point B (with co-ordinates 14° 57′ 13″ N and 82° 50′ 03″ W). From point B the boundary line continues along the median line, which is formed by the points of equidistance between Bobel Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua), through points C (with co-ordinates 14° 56′ 45″ N and 82° 33′ 56″ W) and D (with co-ordinates 14° 56′ 35″ N and 82° 33′ 20″ W), until it meets the point of intersection of the 12-mile arcs of the territorial seas of South Cay (Honduras) and Edinburgh Cay (Nicaragua) at point E (with co-ordinates 14° 53′ 15″ N and 82° 29′ 24″ W). From point E the boundary line follows the 12-mile arc of the territorial sea of South Cay in a northerly direction until it intersects the bisector line at point F (with co-ordinates 15° 16′ 08″ N and 82° 21′ 56″ W).

Starting-point and endpoint of the maritime boundary

Having reviewed the proposals of the Parties, the Court considers it appropriate to set the starting-point 3 miles out to sea (15° 00′ 52″ N and 83° 05′ 58″ W) from the point already identified by the Mixed Commission in 1962 along the azimuth of the bisector as described above. The Parties are to agree on a line which links the end of the land boundary as fixed by the 1906 Award and the point of departure of the maritime delimitation in accordance with the present Judgment.

As for the endpoint, neither Nicaragua nor Honduras in each of their submissions specifies a precise seaward end to the boundary between them.

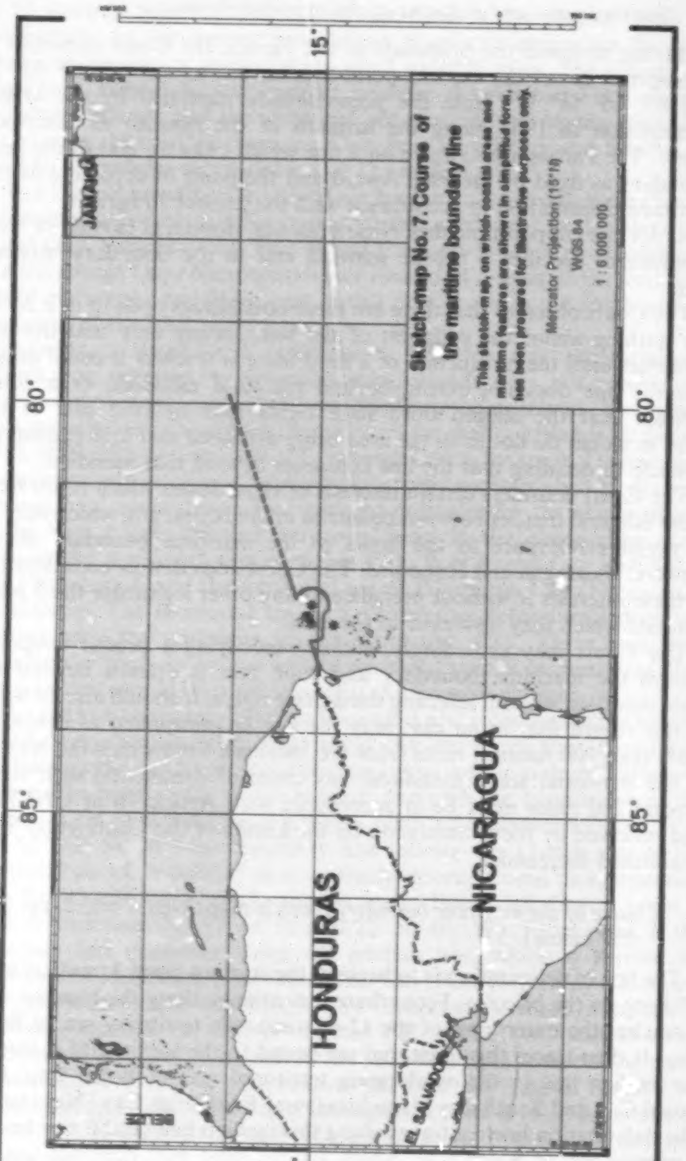
The Court observes that there are three possibilities open to it: it could say nothing about the endpoint of the line, stating only that the line continues until the jurisdiction of a third State is reached; it could decide that the line does not extend beyond the 82nd meridian; or it could indicate that the alleged third-State rights said to exist east of the 82nd meridian do not lie in the area being delimited and thus present no obstacle to deciding that the line continues beyond that meridian.

The Court considers certain interests of third States which result from some bilateral treaties between countries in the region and which may be of possible relevance to the limits to the maritime boundary drawn between Nicaragua and Honduras. The Court adds that its consideration of these interests is without prejudice to any other legitimate third party interests which may also exist in the area.

The Court may accordingly, without specifying a precise endpoint, delimit the maritime boundary and state that it extends beyond the 82nd meridian without affecting third-State rights. It should also be noted in this regard that in no case may the line be interpreted as extending more than 200 nautical miles from the baselines from which the breadth of the territorial sea is measured; any claim of continental shelf rights beyond 200 miles must be in accordance with Article 76 of UNCLOS and reviewed by the Commission on the Limits of the Continental Shelf established thereunder.

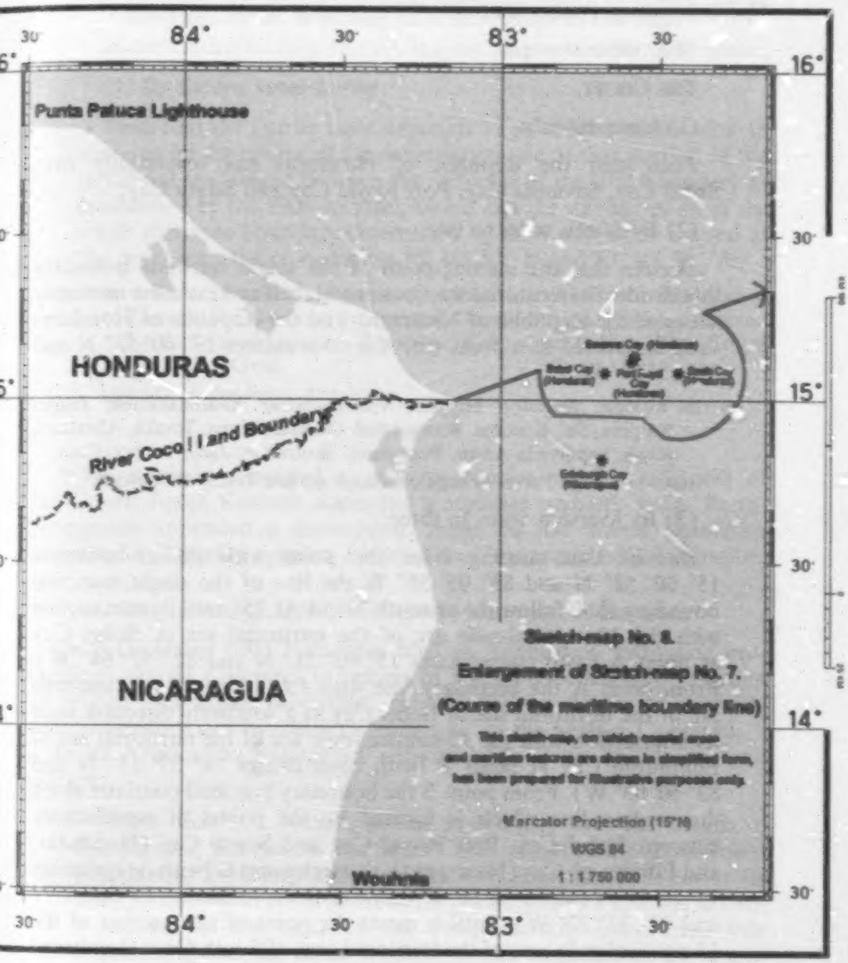
Course of the maritime boundary (sketch-maps Nos. 7 and 8, pp. 258-259 below).

The line of delimitation is to begin at the starting-point 3 nautical miles offshore on the bisector. From there it continues along the bisector until it reaches the outer limit of the 12-nautical-mile territorial sea of Bobel Cay. It then traces this territorial sea round to the south until it reaches the median line in the overlapping territorial seas of Bobel Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua). The delimitation line continues along this median line until it reaches the territorial sea of South Cay, which for the most part does not overlap with the territorial sea of Edinburgh Cay. The line then traces the arc of the outer limit of the 12-nautical-mile territorial sea of South Cay round



Sketch-map No. 7. Course of the maritime boundary line

This sketch-map, on which coastal areas and maritime features are shown in simplified form, has been prepared for illustrative purposes only.
Mercator Projection (15°N)
WGS 84
1 : 6 000 000
JAMAICA
HONDURAS
NICARAGUA
EL SALVADOR
BELIZE
15°
80°
85°


30'
84°
30'
83°
30'
16°
15°
14°
Punta Patuca Lighthouse
HONDURAS
NICARAGUA
River Coco Land Boundary
Savanna Cay (Honduras)
Bobel Cay (Honduras)
Port Royal Cay (Honduras)
South Cay (Honduras)
Edinburgh Cay (Nicaragua)
Wouhnta

Sketch-map No. 8.

Enlargement of Sketch-map No. 7.

(Course of the maritime boundary line)

This sketch-map, on which coastal areas and maritime features are shown in simplified form, has been prepared for illustrative purposes only.

Mercator Projection (15°N)

WGS 84

1 : 1 750 000

to the north until it again connects with the bisector, whereafter the line continues along that azimuth until it reaches the area where the rights of certain third States may be affected.

*

Operative clause (para. 321)

"For these reasons,

THE COURT,

(1) Unanimously,

Finds that the Republic of Honduras has sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay;

(2) By fifteen votes to two,

Decides that the starting-point of the single maritime boundary that divides the territorial sea, continental shelf and exclusive economic zones of the Republic of Nicaragua and the Republic of Honduras shall be located at a point with the co-ordinates 15° 00′ 52″ N and 83° 05′ 58″ W;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Gaja;

AGAINST: *Judge* Parra-Aranguren, *Judge* ad hoc Torres Bernárdez;

(3) By fourteen votes to three,

Decides that starting from the point with the co-ordinates 15° 00′ 52″ N and 83° 05′ 58″ W the line of the single maritime boundary shall follow the azimuth 70° 14′ 41.25″ until its intersection with the 12-nautical-mile arc of the territorial sea of Bobel Cay at point A (with co-ordinates 15° 05′ 25″ N and 82° 52′ 54″ W). From point A the boundary line shall follow the 12-nautical-mile arc of the territorial sea of Bobel Cay in a southerly direction until its intersection with the 12-nautical-mile arc of the territorial sea of Edinburgh Cay at point B (with co-ordinates 14° 57′ 13″ N and 82° 50′ 03″ W). From point B the boundary line shall continue along the median line which is formed by the points of equidistance between Bobel Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua), through point C (with co-ordinates 14° 56′ 45″ N and 82° 33′ 56″ W) and D (with co-ordinates 14° 56′ 35″ N and 82° 33′ 20″ W), until it meets the point of intersection of the 12-nautical-mile arcs of the territorial seas of South Cay (Honduras) and Edinburgh Cay (Nicaragua) at point E (with co-ordinates 14° 53′ 15″ N and 82° 29′ 24″ W). From point E the boundary line shall follow the 12-nautical-mile arc of the territorial sea of South Cay in a northerly direction until it meets the line of the azimuth at point F (with co-ordinates 15° 16′ 08″ N and 82° 21′ 56″ W).

From point F, it shall continue along the line having the azimuth of 70° 14′ 41.25″ until it reaches the area where the rights of third States may be affected;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Gaja;

AGAINST: *Judges* Ranjeva, Parra-Aranguren, *Judge* ad hoc Torres Bernárdez;

(4) By sixteen votes to one,

Finds that the Parties must negotiate in good faith with a view to agreeing on the course of the delimitation line of that portion of the territorial sea located between the endpoint of the land boundary as established by the 1906 Arbitral Award and the starting-point of the single maritime boundary determined by the Court to be located at the point with the co-ordinates 15° 00′ 52″ N and 83° 05′ 58″ W.

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judges* ad hoc Torres Bernárdez, Gaja;

AGAINST: *Judge* Parra-Aranguren."

*

Judge Ranjeva appended a separate opinion to the Judgment of the Court; Judge Koroma appended a separate opinion; Judge Parra-Aranguren appended a declaration; Judge *ad hoc* Torres Bernárdez appended a dissenting opinion; Judge *ad hoc* Gaja appended a declaration.

6. *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*

On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

In its Application, Nicaragua requested the Court to adjudge and declare:

> "*First*, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);
>
> *Second*, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

Nicaragua further indicated that it

> "reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title".

It also "reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

As basis for the Court's jurisdiction, Nicaragua invokes Article XXXI of the Pact of Bogotá, to which both Nicaragua and Colombia are parties, as well as the declarations of the two States recognizing the compulsory jurisdiction of the Court.

By an Order of 26 February 2002 (*I.C.J. Reports 2002*, p. 189), the Court fixed 28 April 2003 and 28 June 2004 as the time-limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

Copies of the pleadings and documents annexed were requested by the Governments of Honduras, Jamaica, Chile, Peru, Ecuador and Venezuela by virtue of Article 53, paragraph 1, of the Rules of Court. Pursuant to that same provision, the Court, after ascertaining the views of the Parties, acceded to those requests.

On 21 July 2003, within the time-limit for the submission of its Counter-Memorial, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Rules, Art. 79). Within the time-limit of 26 January 2004 as fixed by the Court in its Order of 24 September 2003 (*I.C.J. Reports 2003*, p. 158) Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia.

Public hearings were held on the preliminary objections from 4 to 8 June 2007. At the conclusion of those hearings, the Parties presented the following submissions to the Court:

For Colombia:

> "Pursuant to Article 60 of the Rules of Court, having regard to Colombia's pleadings, written and oral, Colombia respectfully requests the Court to adjudge and declare that:
>
> (1) under the Pact of Bogotá, and in particular in pursuance of Articles VI and XXXIV, the Court declares itself to be without jurisdiction to hear the controversy submitted to it by Nicaragua under Article XXXI, and declares that controversy ended;
> (2) under Article 36, paragraph 2, of the Statute of the Court, the Court has no jurisdiction to entertain Nicaragua's Application; and that:
> (3) Nicaragua's Application is dismissed."

For Nicaragua:

> "In accordance with Article 60 of the Rules of Court and having regard to the pleadings, written and oral, the Republic of Nicaragua respectfully requests to the Court, to adjudge and declare that:
>
> 1. The Preliminary Objections submitted by the Republic of Colombia, both in respect of the jurisdiction based upon the Pact of Bogotá, and in respect of the jurisdiction based upon Article 36, paragraph 2, of the Statute of the Court, are invalid.
> 2. In the alternative, the Court is requested to adjudge and declare, in accordance with the provisions of Article 79, paragraph 7, of the Rules of Court that the Objections submitted by the Republic of Colombia do not have an exclusively preliminary character.
> 3. In addition, the Republic of Nicaragua requests the Court to reject the request of the Republic of Colombia to declare the controversy submitted to it by Nicaragua under Article XXXI of the Pact of Bogotá 'ended', in accordance with Articles VI and XXXIV of the same instrument.
> 4. Any other matters not explicitly dealt with in the foregoing Written Statement and oral pleadings, are expressly reserved for the merits phase of this proceeding."

On 13 December 2007, the Court rendered its Judgment on the preliminary objections (*I.C.J. Reports 2007 (II)*, p. 832), a summary of which is given below, followed by the text of the operative paragraph:

Chronology of the procedure and submissions of the Parties (paras. 1-14)

The Court recites the history of the proceedings and submissions of the Parties in the case.

Historical background (paras. 15-32)

The Court gives a brief account of the history which forms the background of the dispute between the Parties (only parts of which are referred to below).

It notes that on 24 March 1928, a "Treaty concerning Territorial Questions at Issue between Colombia and Nicaragua" was signed at Managua (hereinafter the "1928 Treaty"), in which both countries expressed their desire to put "an end to the territorial dispute between them". Article I of that Treaty provided as follows:

> "The Republic of Colombia recognises the full and entire sovereignty of the Republic of Nicaragua over the Mosquito Coast between Cape Gracias a Dios and the San Juan River, and over Mangle Grande and Mangle Chico Islands in the Atlantic Ocean (Great Corn Island and Little Corn Island). The Republic of Nicaragua recognises the full and entire sovereignty of the Republic of Colombia over the islands of San Andrés, Providencia and Santa

> Catalina and over the other islands, islets and reefs forming part of the San Andrés Archipelago.
>
> The present Treaty does not apply to the reefs of Roncador, Quitasueño and Serrana, sovereignty over which is in dispute between Colombia and the United States of America." *[Translation by the Secretariat of the League of Nations, for information.]*

The instruments of ratification of the 1928 Treaty were exchanged at Managua on 5 May 1930. The Parties signed on that occasion a Protocol of Exchange of Ratifications (hereinafter the "1930 Protocol"). The Protocol noted that the 1928 Treaty was concluded between Colombia and Nicaragua "with a view to putting an end to the dispute between both Republics concerning the San Andrés Archipelago and the Nicaraguan Mosquito Coast". The Protocol stipulated as follows:

> "The undersigned, in virtue of the full powers which have been granted to them and on the instructions of their respective Governments, hereby declare that the San Andrés and Providencia Archipelago mentioned in the first Article of the said Treaty does not extend west of the 82nd degree of longitude west of Greenwich." *[Translation by the Secretariat of the League of Nations, for information.]*

In a diplomatic Note dated 4 June 1969, Colombia protested against the granting of certain oil exploration concessions and reconnaissance permits by Nicaragua, which allegedly covered Quitasueño and the waters surrounding it as well as maritime zones that surpassed the 82nd meridian to the east. With respect to Quitasueño, Colombia pointed out that the 1928 Treaty explicitly declared that the Roncador, Quitasueño and Serrana cays were in dispute between Colombia and the United States. Colombia also made "a formal reservation . . . of its rights over the referenced territory, as well as over the adjacent maritime zone". With respect to the maritime zones over which oil exploration concessions had been granted, Colombia observed that the 82nd meridian had been noted in the 1930 Protocol as the western boundary of the Archipelago of San Andrés and Providencia.

In a diplomatic Note dated 12 June 1969, Nicaragua asserted, with respect to the oil exploration concessions, that the areas concerned were part of its continental shelf and that the concessions had therefore been granted "in use of the sovereign rights [Nicaragua] fully and effectively exercises in accordance with the norms of international law". As to the reference to the 82nd meridian in the 1930 Protocol, Nicaragua asserted that

> "[a] simple reading of the . . . texts makes it clear that the objective of this provision is to clearly and specifically establish in a restrictive manner, the extension of the Archipelago of San Andrés, and by no valid means can it be interpreted as a boundary of Nicaraguan rights or creator of a border between the two countries. On the contrary,

> it acknowledges and confirms the sovereignty and full domain of Nicaragua over national territory in that zone".

In a Note in response dated 22 September 1969, Colombia *inter alia* made a "formal declaration of sovereignty in the maritime areas located East of Meridian 82 of Greenwich", relying on the 1928 Treaty and 1930 Protocol. Colombia also pointed to the exclusion in the 1928 Treaty of the Roncador, Quitasueño and Serrana cays "from any negotiations between Colombia and Nicaragua".

On 23 June 1971, Nicaragua sent a memorandum to the Department of State of the United States formally reserving its rights over its continental shelf in the area around Roncador, Quitasueño and Serrana and noting that it considered those banks to be part of its continental shelf. It further stated that it could not accept Colombia's contention that the 82nd meridian referred to in the 1930 Protocol set the dividing line between the respective maritime zones of the two States since it only constituted the limit of the San Andrés Archipelago.

On 8 September 1972, Colombia and the United States signed the Treaty concerning the status of Quitasueño, Roncador and Serrana (also known as the Vásquez-Saccio Treaty). Article 1 of the Treaty provided that "the Government of the United States hereby renounces any and all claims to sovereignty over Quita Sueño, Roncador and Serrana". On the same day, there was an Exchange of Notes between Colombia and the United States concerning their "legal position respecting Article 1 of [the] Treaty". The United States affirmed that its legal position was, *inter alia*, that "Quita Sueño, being permanently submerged at high tide, is at the present time not subject to the exercise of sovereignty" and that the 1928 Treaty did not apply to Roncador, Quitasueño and Serrana. For its part, Colombia stated that its position was that the "[t]he physical status of Quita Sueño is not incompatible with the exercise of sovereignty" and that

> "with the renunciation of sovereignty by the United States over Quita Sueño, Roncador, and Serrana, the Republic of Colombia is the only legitimate title holder on those banks or cays, in accordance with the [1928 Treaty and 1930 Protocol] and international law".

On 4 October 1972, the National Assembly of Nicaragua adopted a formal declaration proclaiming Nicaraguan sovereignty over Roncador, Quitasueño and Serrana. On 7 October 1972, Nicaragua formally protested, in diplomatic Notes to Colombia and the United States, against the signing of the Vásquez-Saccio Treaty and maintained that "the banks located in that zone . . . [were] part of [Nicaragua's] territory and therefore subject to its sovereignty". It added that it could not accept Colombia's contention that the 82nd meridian referred to in the 1930 Protocol constituted the boundary line of the respective maritime areas of the two States since it did not coincide with the letter or spirit of the

Protocol, the clear intention of which was to specify that the San Andrés Archipelago did not extend west further than the 82nd meridian.

In July 1979 the Sandinista Government came to power in Nicaragua. On 4 February 1980, the Minister for Foreign Affairs of Nicaragua published an official declaration and a "Libro Blanco" (hereinafter "White Paper") in which Nicaragua declared

> "the nullity and lack of validity of the Bárcenas-Meneses-Esguerra Treaty [the 1928 Treaty] . . . [concluded] in a historical context which incapacitated as rulers the presidents imposed by the American forces of intervention in Nicaragua and which infringed . . . the principles of the National Constitution in force . . .".

In a diplomatic Note sent to Nicaragua on 5 February 1980, Colombia rejected the declaration of 4 February 1980 as "an unfounded claim that counters historical reality and breaches the most elementary principles of public international law". In the view of the Colombian Government, the 1928 Treaty "[was] a valid, perpetual instrument, and in full force in light of the universally recognized legal norms".

The new government which came to power in Nicaragua in 1990 and subsequent governments maintained the position with regard to the meaning of certain provisions of the 1928 Treaty and 1930 Protocol which had been stated from 1969 onwards and the position with regard to the invalidity of the 1928 Treaty which had been set out in the 1980 White Paper.

Subject-matter of the dispute (paras. 33-42)

The Court initially notes that the Parties have presented different views about whether there is an extant dispute between them and, if so, the subject-matter of that dispute. Consequently, before addressing Colombia's preliminary objections, it needs to examine these issues.

The Court recalls that according to Nicaragua, the dispute submitted to the Court concerned (i) the validity of the 1928 Treaty and its termination due to material breach; (ii) the interpretation of the 1928 Treaty, particularly regarding the geographical scope of the San Andrés Archipelago; (iii) the legal consequences of the exclusion from the scope of the 1928 Treaty of Roncador, Quitasueño and Serrana; and (iv) the maritime delimitation between the Parties including the legal significance of the reference to the 82nd meridian in the 1930 Protocol. In Nicaragua's view, the fourth element "implie[d] and encompasse[d] all the others". In this regard, Nicaragua contended that the question of sovereignty over the maritime features was both accessory and preliminary to that of maritime delimitation. Finally, Nicaragua also submitted that the question whether the 1928 Treaty has settled all questions between the Parties is "the very object of the dispute" and "the substance of the case".

Colombia, for its part, denied that there was an extant dispute over which the Court could have jurisdiction, claiming that the matters in issue had already been settled by the 1928 Treaty. It further contended that the real purpose behind Nicaragua's Application was maritime delimitation rather than the determination of sovereignty over the maritime features.

The Court notes that, while the Applicant must present its view of the "subject of the dispute" pursuant to Article 40, paragraph 1, of the Statute of the Court, it is for the Court itself to determine the subject-matter of the dispute before it, taking account of the submissions of the Parties. As a preliminary point, the Court recalls that the Parties disagree on whether or not the dispute between them had been "settled" by the 1928 Treaty within the meaning of Article VI of the Pact of Bogotá. The Court first notes that Article VI of the Pact provides that the dispute settlement procedures in the Pact

> "may not be applied to matters already *settled* by arrangement between the parties, or by arbitral award or by decision of an international court, or which are *governed* by agreements or treaties in force on the date of the conclusion of the present Treaty" (emphasis added).

The Court also notes that according to Article XXXIV of the Pact controversies over matters which are governed by agreements or treaties shall be declared "ended" in the same way as controversies over matters settled by arrangement between the parties, arbitral award or decision of an international court. The Court considers that, in the specific circumstances of the case, there is no difference in legal effect, for the purpose of applying Article VI of the Pact, between a given matter being "settled" by the 1928 Treaty and being "governed" by that Treaty. In light of the foregoing, the Court decides to use the word "settled" in its Judgment.

After having examined Nicaragua's arguments, the Court considers that the question whether the 1928 Treaty and 1930 Protocol settled the matters in dispute between the Parties concerning sovereignty over the islands and maritime features and the course of the maritime boundary does not form the subject-matter of the dispute between the Parties and that, in the circumstances of the case, the question is a preliminary one.

With respect to Colombia's contention that Nicaragua's true interest lay in the maritime delimitation rather than in sovereignty over the maritime features, the Court notes that nonetheless "the claim of one party is positively opposed by the other" as to sovereignty over the maritime features.

The Court thus concludes that the questions which constitute the subject-matter of the dispute between the Parties on the merits are, first, sovereignty over territory (namely the islands and other maritime features claimed by the Parties) and, second, the course of the maritime boundary between the Parties.

First preliminary objection (paras. 43-120)

General overview of the arguments of the Parties

The Court recalls that in its first preliminary objection, Colombia claims that pursuant to Articles VI and XXXIV of the Pact of Bogotá, the Court is without jurisdiction under Article XXXI of the Pact to hear the controversy submitted to it by Nicaragua and should declare the controversy ended. In this regard, Colombia, referring to Article VI of the Pact, argues that the matters raised by Nicaragua were settled by a treaty in force on the date on which the Pact was concluded, namely the 1928 Treaty and the 1930 Protocol. Colombia adds that this question can and must be considered at the preliminary objections stage.

Nicaragua claims that the Court has jurisdiction under Article XXXI of the Pact of Bogotá. In this regard, Nicaragua argues that the 1928 Treaty and its 1930 Protocol did not settle the dispute between Nicaragua and Colombia within the meaning of Article VI of the Pact of Bogotá because the 1928 Treaty was invalid or had been terminated and that, even if that was not the case, the 1928 Treaty did not cover all the matters now in dispute between the Parties. Moreover, Nicaragua contends that the Court may not pronounce upon these issues at this stage of the proceedings since that would require an examination of the merits of the case.

The appropriate stage of proceedings for examination of the preliminary objection

The Court recalls that, under Article 79, paragraph 9, of the Rules of Court, there are three ways in which it may dispose of a preliminary objection: the Court "shall either uphold the objection, reject it, or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character". The Court further recalls that, in the *Nuclear Tests* cases (albeit in slightly different circumstances), it emphasized that while examining questions of jurisdiction and admissibility, it is entitled, and in some circumstances may be required, to go into other questions which may not be strictly capable of classification as matters of jurisdiction or admissibility but are of such a nature as to require examination before those matters.

The Court believes that it is not in the interest of the good administration of justice for it to limit itself at that juncture to stating merely that there is a disagreement between the Parties as to whether the 1928 Treaty and 1930 Protocol settled the matters which are the subject of the controversy within the meaning of Article VI of the Pact of Bogotá, leaving every aspect thereof to be resolved on the merits.

In principle, a party raising preliminary objections is entitled to have these objections answered at the preliminary stage of the proceedings unless the Court does not have before it all facts necessary to decide the questions raised or if answering the preliminary objection would determine the dispute, or some elements thereof, on the merits. The Court finds itself in neither of these situations in the case at hand. The determination by the Court of its jurisdiction may touch upon certain aspects of the merits of the case. Moreover, the Court has already found that the question of whether the 1928 Treaty and the 1930 Protocol settled the matters in dispute does not constitute the subject-matter of the dispute on the merits. It is rather a preliminary question to be decided in order to ascertain whether the Court has jurisdiction.

In light of the foregoing, the Court finds that it is unable to uphold Nicaragua's contention that it is precluded from addressing Colombia's first preliminary objection at this stage of the proceedings.

Jurisdictional system of the Pact of Bogotá

The Court makes mention of the relevant provisions of the Pact of Bogotá in the case, beginning with Article XXXI, which reads as follows:

> "In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize, in relation to any other American State, the jurisdiction of the Court as compulsory *ipso facto*, without the necessity of any special agreement so long as the present Treaty is in force, in all disputes of a juridical nature that arise among them concerning:
>
> *(a)* The interpretation of a treaty;
> *(b)* Any question of international law;
> *(c)* The existence of any fact which, if established, would constitute the breach of an international obligation; or
> *(d)* The nature or extent of the reparation to be made for the breach of an international obligation."

The other relevant provisions are Articles VI and XXXIV of the Pact. Article VI provides that:

> "The aforesaid procedures, furthermore, may not be applied to matters already settled by arrangement between the parties, or by arbitral award or by decision of an international court, or which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty."

Article XXXIV reads as follows:

> "If the Court, for the reasons set forth in Articles V, VI and VII of this Treaty, declares itself to be without jurisdiction to hear the controversy, such controversy shall be declared ended."

These provisions indicate that if the Court were to find that the matters referred to it by Nicaragua pursuant to Article XXXI of the Pact of Bogotá had previously been settled by one of the methods spelled out in Article VI thereof, it would lack the requisite jurisdiction under the Pact to decide the case.

The question whether the 1928 Treaty and 1930 Protocol settled the matters in dispute between the Parties

The Court considers the arguments of the Parties and examines the factual background of the conclusion of the 1928 Treaty and the signature of the 1930 Protocol. It states that, in order to ascertain whether it has jurisdiction, it has to decide the question whether, on the date of the conclusion of the Pact of Bogotá in 1948, the matters raised by Nicaragua were, pursuant to Article VI thereof, "governed by agreements or treaties in force". For this purpose, the first point for the Court to consider is whether the treaty, which Colombia alleges to have settled the matters constituting the subject-matter of the dispute, was in force in 1948.

The Court notes that, with respect to the validity of the 1928 Treaty, Nicaragua first contends that the Treaty was "concluded in manifest violation of the Nicaraguan Constitution of 1911 that was in force in 1928" and, secondly, that at the time the Treaty was concluded, Nicaragua was under military occupation by the United States and was precluded from concluding treaties that ran contrary to the interests of the United States and from rejecting the conclusion of treaties that the United States demanded it to conclude. Nicaragua submits in this respect that Colombia was aware of this situation and "took advantage of the US occupation of Nicaragua to extort from her the conclusion of the 1928 Treaty". Nicaragua claims that it remained under the influence of the United States even after the withdrawal of the last United States troops at the beginning of 1933.

Colombia, for its part, maintains that Nicaragua's assertion relating to the invalidity of the 1928 Treaty is unfounded. It observes that, even assuming that the 1928 Treaty was incompatible with Nicaragua's 1911 Constitution or that Nicaragua lacked competence to freely conclude treaties due to occupation by the United States, these claims were not raised during the ratification process in the Nicaraguan Congress in 1930, nor for some 50 years thereafter. It points out that, in fact, these arguments were raised for the first time in 1980. Colombia further notes that in 1948, when the Pact of Bogotá was concluded, Nicaragua made no reservation with regard to the 1928 Treaty, despite the fact that Nicaragua knew that it had the right to make such a reservation and made a reservation with regard to the validity of an arbitral award. Finally, Colombia contends that, as a consequence, Nicaragua is now precluded from raising the question of validity of the 1928 Treaty and its 1930 Protocol.

The Court recalls that the clear purpose of Article VI of the Pact of Bogotá was to preclude the possibility of using the procedures provided for in the Pact, and in particular judicial remedies, in order to reopen such matters as were settled between the parties to the Pact, because they had been the object of an international judicial decision or a treaty. When ratifying the Pact, States envisaged bringing within its procedures matters not yet so settled.

States parties to the Pact of Bogotá would have considered that matters settled by a treaty or international judicial decision had been definitively resolved unless a specific reservation relating thereto was made under Articles LIV and LV of the Pact. Nicaragua did not enter any reservation regarding the 1928 Treaty when it became a party to the Pact of Bogotá, the treaty it now invokes as a basis of jurisdiction, although it did enter a reservation with regard to arbitral decisions the validity of which it contested. The Court notes that there is no evidence that the States parties to the Pact of Bogotá of 1948, including Nicaragua, considered the 1928 Treaty to be invalid. On 25 May 1932, Nicaragua registered the Treaty and Protocol with the League of Nations as a binding agreement, pursuant to Article 18 of the Covenant of the League, Colombia having already registered the Treaty on 16 August 1930.

The Court recalls that Nicaragua advanced "the nullity and lack of validity" of the 1928 Treaty for the first time in an official declaration and White Paper published on 4 February 1980. The Court thus notes that, for more than 50 years, Nicaragua has treated the 1928 Treaty as valid and never contended that it was not bound by the Treaty, even after the withdrawal of the last United States troops at the beginning of 1933. At no time in those 50 years, even after it became a Member of the United Nations in 1945 and even after it joined the Organization of American States in 1948, did Nicaragua contend that the Treaty was invalid for whatever reason, including that it had been concluded in violation of its Constitution or under foreign coercion. On the contrary, Nicaragua has, in significant ways, acted as if the 1928 Treaty was valid. Thus, in 1969, when Nicaragua responded to Colombia's claim that the 82nd meridian, referred to in the 1930 Protocol, constituted the maritime boundary between the two States, Nicaragua did not invoke the invalidity of the Treaty but argued instead that the 1928 Treaty and 1930 Protocol did not effect a maritime delimitation. Similarly, in 1971 when Nicaragua made representations to the United States reserving its rights over Roncador, Quitasueño and Serrana, it did not call into question the validity of the 1928 Treaty. The Court thus finds that Nicaragua cannot today be heard to assert that the 1928 Treaty was not in force in 1948.

The Court accordingly finds that the 1928 Treaty was valid and in force on the date of the conclusion of the Pact of Bogotá in 1948, the date by reference to which the Court must decide on the applicability of the provisions of Article VI of the Pact of Bogotá setting out an exception to the Court's jurisdiction under Article XXXI thereof.

The Court recalls that Nicaragua argues that, even if the 1928 Treaty was valid, it has been terminated due to Colombia's interpretation of the Treaty in 1969, which Nicaragua characterized as a material breach thereof. This contention is denied by Colombia. The Court considers that the question whether the Treaty was terminated in 1969 is not relevant to the question of its jurisdiction since what is determinative, under Article VI of the Pact of Bogotá, is whether the 1928 Treaty was in force on the date of the conclusion of the Pact, i.e., in 1948, and not in 1969. Accordingly, there is no need for the Court to address the question of the purported termination of the 1928 Treaty in 1969 for the purposes of the ascertainment of its jurisdiction.

The Court then turns to the question whether the Treaty and its 1930 Protocol settled the matters in dispute between the Parties and consequently whether the Court has jurisdiction in the case under Article

XXXI of the Pact. It recalls that it has already concluded that there are two questions in dispute between the Parties on the merits: first, territorial sovereignty over islands and other maritime features and, second, the course of the maritime boundary between the Parties.

The Court notes that the Parties disagree about whether various matters relating to territorial sovereignty were settled by the 1928 Treaty, namely sovereignty over the three islands of the San Andrés Archipelago expressly named in the Treaty, the scope and composition of the rest of the San Andrés Archipelago and sovereignty over Roncador, Quitasueño and Serrana. The Parties also disagree about whether the 1930 Protocol effected a maritime delimitation between them.

With respect to the question of its jurisdiction as regards the issue of sovereignty over the named islands of the San Andrés Archipelago, the Court considers that it is clear on the face of the text of Article I that the matter of sovereignty over the islands of San Andrés, Providencia and Santa Catalina has been settled by the 1928 Treaty within the meaning of Article VI of the Pact of Bogotá. In the Court's view there is no need to go further into the interpretation of the Treaty to reach that conclusion and there is nothing relating to this issue that could be ascertained only on the merits.

Nicaragua's contention that the 1928 Treaty is invalid has already been dealt with by the Court. With regard to Nicaragua's further assertion that the 1928 Treaty has been terminated by material breach due to the interpretation adopted by Colombia from 1969 onwards, that issue has not been addressed by the Court at this stage since it is not relevant to the question of its jurisdiction by reference to Article VI of the Pact of Bogotá. Even if the Court were to find that the 1928 Treaty has been terminated, as claimed by Nicaragua, this would not affect the sovereignty of Colombia over the islands of San Andrés, Providencia and Santa Catalina. The Court recalls that it is a principle of international law that a territorial régime established by treaty "achieves a permanence which the treaty itself does not necessarily enjoy" and that the continued existence of that régime is not dependent upon the continuing life of the treaty under which the régime is agreed.

In the light of the foregoing, the Court finds that it can dispose of the issue of the three islands of the San Andrés Archipelago expressly named in the first paragraph of Article I of the 1928 Treaty at the current stage of the proceedings. That matter has been settled by the Treaty. Consequently, Article VI of the Pact is applicable on this point and therefore the Court does not have jurisdiction under Article XXXI of the Pact of Bogotá over the question of sovereignty over the three named islands. Accordingly, the Court upholds the first preliminary objection raised by Colombia in so far as it concerns the Court's jurisdiction as regards the question of sovereignty over the islands of San Andrés, Providencia and Santa Catalina.

As regards the question of the scope and composition of the rest of the San Andrés Archipelago, the Court recalls that there is agreement between the Parties that the San Andrés Archipelago includes the islands of San Andrés, Providencia and Santa Catalina as well as adjacent islets and cays. However, the Parties disagree as to which maritime features other than those named islands form part of the Archipelago.

The Court considers that it is clear on the face of the text of the first paragraph of Article I of the 1928 Treaty that its terms do not provide the answer to the question as to which maritime features apart from the islands of San Andrés, Providencia and Santa Catalina form part of the San Andrés Archipelago over which Colombia has sovereignty. That being so, this matter has not been settled within the meaning of Article VI of the Pact of Bogotá and the Court has jurisdiction under Article XXXI of the Pact of Bogotá. Therefore, the Court cannot uphold the first preliminary objection raised by Colombia in so far as it concerns the Court's jurisdiction as regards the question of sovereignty over the maritime features forming part of the San Andrés Archipelago, save for the islands of San Andrés, Providencia and Santa Catalina.

With respect to the question of its jurisdiction as regards the matter of sovereignty over Roncador, Quitasueño and Serrana, the Court observes that the meaning of the second paragraph of Article I of the 1928 Treaty is clear: this treaty does not apply to the three maritime features in question. Therefore, the limitations contained in Article VI of the Pact of Bogotá do not apply to the question of sovereignty over Roncador, Quitasueño and Serrana. The Court thus has jurisdiction over this issue under Article XXXI of the Pact of Bogotá and cannot uphold the first preliminary objection raised by Colombia in so far as it concerns the Court's jurisdiction as regards the question of sovereignty over Roncador, Quitasueño and Serrana.

With respect to the question of its jurisdiction as regards the issue of the maritime delimitation, the Court, after examining the arguments presented by the Parties and the material submitted to it, concludes that the 1928 Treaty and 1930 Protocol did not effect a general delimitation of the maritime boundary between Colombia and Nicaragua. Since the dispute concerning maritime delimitation has not been settled by the 1928 Treaty and 1930 Protocol within the meaning of Article VI of the Pact of Bogotá, the Court has jurisdiction under Article XXXI of the Pact. Therefore, the Court cannot uphold Colombia's first preliminary objection in so far as it concerns the Court's jurisdiction as regards the question of the maritime delimitation between the Parties.

Second preliminary objection (paras. 121-140)

In addition to Article XXXI of the Pact of Bogotá, Nicaragua invoked as a basis of the Court's jurisdiction the declarations made by the Parties under Article 36 of the Statute of the Permanent Court of International Justice, which are deemed, for the period for which they still have to run, to be acceptances of the compulsory jurisdiction of the present Court pursuant to Article 36, paragraph 5, of its Statute.

In its second preliminary objection, Colombia asserts that the Court has no jurisdiction on this basis. It claims that jurisdiction under the Pact of Bogotá is governing and hence exclusive. In its view, since the Court has jurisdiction under Article XXXIV of the Pact to declare the controversy ended and must do so in the case at hand, the Court may not proceed further to consider whether it might have jurisdiction under the optional clause. In support of its claim, Colombia relies on the Court's Judgment in the *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)* case, in which Nicaragua also asserted jurisdiction on the basis of Article XXXI of the Pact of Bogotá and on the basis of optional clause declarations. Colombia notes that, in the *Armed Actions* case, the Court declared that "in relations between the States parties to the Pact of Bogotá, that Pact is governing" and that

> "the commitment in Article XXXI . . . is an autonomous commitment, independent of any other which the parties may have undertaken or may undertake by depositing with the United Nations Secretary-General a declaration of acceptance of compulsory jurisdiction under Article 36, paragraphs 2 and 4, of the Statute" (*Border and Transborder Armed Actions (Nicaragua* v. *Honduras), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1988*, p. 82, para. 27 and p. 85, para. 36).

Colombia considers that the Court thus laid down the principle of primacy of the title of jurisdiction under the Pact of Bogotá. It concludes that, when an Applicant invokes both the Pact of Bogotá and optional clause declarations, it is the Pact of Bogotá, as *lex specialis*, which governs or, in other words, is determinative and conclusive.

Colombia claims that in the *Armed Actions* case, the Court held that the title of jurisdiction under the Pact of Bogotá prevailed over subsequent optional clause declarations. Colombia points out that, in the case at hand, the argument that the Pact of Bogotá takes precedence is even stronger since the optional clause declarations of Nicaragua and Colombia were made before the entry into force of the Pact of Bogotá. Therefore, the Pact of Bogotá is not only *lex specialis* but also *lex posterior*.

In Colombia's view, "it is the Pact of Bogotá which constitutes the Court's title of jurisdiction in our case" and were the Court to conclude that it had no jurisdiction to adjudicate upon the dispute, the application of the Pact would require the Court to declare the controversy ended pursuant to Article XXXIV thereof, "not only for the purposes of the Court's jurisdiction under the Pact, but for all purposes". In this regard, Colombia claims that a dispute cannot be settled and ended and yet at the same time be a dispute capable of adjudication by the Court pursuant to jurisdiction accorded under the optional clause. Consequently, once the controversy between the Parties has been declared by the Court to be ended under the Pact of Bogotá, there would be no controversy outstanding to which jurisdiction could attach under any other title, including the declarations of the Parties under the optional clause.

Colombia further argues that, in any event, the Court would have no jurisdiction on the basis of the Parties' optional clause declarations since Colombia's declaration had been withdrawn (December 2001) by the date of the filing of Nicaragua's Application. Colombia finally contends that even if its declaration were found to be in force at the time when Nicaragua filed its Application, the alleged dispute would fall outside the scope of the declaration as a result of a reservation which excluded disputes arising out of facts prior to 6 January 1932.

Nicaragua, for its part, submits that although the Court stated in its Judgment in the *Armed Actions* case that "in relations between the States parties to the Pact of Bogotá, that Pact is governing", this cannot "destroy the value of the Optional Clause declarations as an independent basis of jurisdiction" since they "have an intrinsic value in and of themselves, and their operation is not predetermined by other titles of jurisdiction". It considers that the primacy of the Pact does not signify exclusiveness. Nicaragua contends that this was recognized by the Court itself in the *Armed Actions* case when it stated that the commitment under the Pact of Bogotá is "*independent* of any other which the parties may have undertaken . . . by depositing . . . a declaration of acceptance of compulsory jurisdiction" (emphasis added). It points out that in the *Armed Actions* case, the Court did not rule out the possibility that it also had jurisdiction under the Parties' optional clause declarations but simply concluded that it "[did] not need to consider" that question since it had already found that it had jurisdiction under the Pact of Bogotá.

In Nicaragua's view, if the Court were to declare the controversy ended pursuant to Article XXXIV of the Pact, that finding would have to be understood within the framework of the Pact itself. Thus the controversy would be ended only to the extent that it would no longer be possible to invoke the Pact as a basis of jurisdiction. It underlines that such a finding pursuant to Article XXXIV of the Pact does not exclude the existence of other bases of jurisdiction such as the declarations by the Parties under the optional clause.

Nicaragua argues that the two bases of jurisdiction, namely Article XXXI of the Pact of Bogotá and the declarations made by the Parties under the optional clause are complementary and that it is for the Court to decide whether to rely upon only one of them or to combine them. It points out that the States parties to the Pact of Bogotá intended to broaden the jurisdiction of the Court not to limit existing obligations deriving from other instruments. In this context, Nicaragua refers to the statement of the Permanent Court of International Justice in the *Electricity Company of Sofia and Bulgaria* case regarding multiple agreements accepting compulsory jurisdiction.

Nicaragua denies that Colombia's declaration was not in force at the time of the filing of the Application. It contends that reasonable notice is required for the withdrawal of declarations and that this condition was not complied with by Colombia. Nicaragua does not dispute that Colombia's declaration applied only to disputes arising from facts subsequent to 6 January 1932: it argues, however, that the generating fact of the dispute, namely the interpretation of the 1928 Treaty and 1930 Protocol adopted by Colombia from 1969 onwards, arose after 6 January 1932. Finally, Nicaragua asserts, referring to the provisions of Article 79, paragraph 9, of the Rules of Court, that in any event the objection submitted by Colombia does not have an exclusively preliminary character.

The Court notes initially that the question of whether the optional clause declarations of the Parties can provide a distinct and sufficient basis of jurisdiction in the case now only arises in respect of that part of the dispute relating to the sovereignty over the three islands expressly named in Article I of the 1928 Treaty: San Andrés, Providencia and Santa Catalina. Having first examined the preliminary objection raised by Colombia to jurisdiction under the Pact of Bogotá, the Court has concluded that it has jurisdiction on the basis of Article XXXI of the Pact to deal with all the other aspects of the dispute. Consequently, no purpose is served by examining whether, in relation to those aspects, the declarations of the Parties under the optional clause could also provide a basis of the Court's jurisdiction.

The Court recalls that in the *Armed Actions* case it stated that "[s]ince, in relations between the States parties to the Pact of Bogotá, that Pact is governing, the Court will *first* examine the question whether it has jurisdiction under Article XXXI of the Pact" (emphasis added). However, this cannot be interpreted in any way other than that the Court, faced with the two titles of jurisdiction invoked, could not deal with them simultaneously and decided to proceed from the particular to the more general, without thereby implying that the Pact of Bogotá prevailed over and excluded the second title of jurisdiction, namely the optional clause declarations.

The Court thus considers that the provisions of the Pact of Bogotá and the declarations made under the optional clause represent two distinct bases of the Court's jurisdiction which are not mutually exclusive. It notes that the scope of its jurisdiction could be wider under the optional clause than under the Pact of Bogotá.

The Court observes that neither Colombia nor Nicaragua has made a reservation to their respective optional clause declarations identical or similar to the restriction contained in Article VI of the Pact of Bogotá. Accordingly, the limitation imposed by Article VI of the Pact would not be applicable to jurisdiction under the optional clause.

The Court notes that its acknowledgment of the fact that sovereignty over the islands of San Andrés, Providencia and Santa Catalina was attributed to Colombia under the 1928 Treaty was made for the purposes of ascertaining whether or not the Court had jurisdiction over the matter under the Pact of Bogotá. However, it is equally relevant for the purposes of determining whether the Court has jurisdiction on the basis of the optional clause declarations. In this regard, the Court notes that Article 36, paragraph 2, of the Statute expressly requires that, in order for the Court to have jurisdiction on the basis of optional clause declarations, there must exist a "legal dispute" between the Parties.

Given the Court's finding that there is no extant legal dispute between the Parties on the question of sovereignty over the three islands, the Court cannot have jurisdiction over this question either under the Pact of Bogotá or on the basis of the optional clause declarations.

In the light of the foregoing, the Court finds that no practical purpose would be served by proceeding further with the other matters raised in the second preliminary objection filed by Colombia. The Court thus upholds the second preliminary objection relating to jurisdiction under the optional clause declarations raised by Colombia in so far as it concerns the Court's jurisdiction as regards the question of sovereignty over the islands of San Andrés, Providencia and Santa Catalina, and finds that it is not necessary to examine the objection in so far as it concerns sovereignty over the other maritime features in dispute between the Parties and the maritime delimitation between the Parties.

Subsequent procedure (para. 141)

In accordance with Article 79, paragraph 9, of the Rules of Court, time-limits for the further proceedings shall subsequently be fixed by Order of the Court.

Operative paragraph (para. 142)

"For these reasons,

THE COURT,

(1) As regards the first preliminary objection to jurisdiction raised by the Republic of Colombia on the basis of Articles VI and XXXIV of the Pact of Bogotá:

(a) By thirteen votes to four,

Upholds the objection to its jurisdiction in so far as it concerns sovereignty over the islands of San Andrés, Providencia and Santa Catalina;

IN FAVOUR: *President* Higgins; *Judges* Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Keith, Sepúlveda-Amor, Skotnikov; *Judges* ad hoc Fortier, Gaja;

AGAINST: *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Abraham, Bennouna;

(b) Unanimously,

Rejects the objection to its jurisdiction in so far as it concerns sovereignty over the other maritime features in dispute between the Parties;

(c) Unanimously,

Rejects the objection to its jurisdiction in so far as it concerns the maritime delimitation between the Parties;

(2) As regards the second preliminary objection to jurisdiction raised by the Republic of Colombia relating to the declarations made by the Parties recognizing the compulsory jurisdiction of the Court:

(a) By fourteen votes to three,

Upholds the objection to its jurisdiction in so far as it concerns sovereignty over the islands of San Andrés, Providencia and Santa Catalina;

IN FAVOUR: *President* Higgins; *Judges* Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Skotnikov; *Judges* ad hoc Fortier, Gaja;

AGAINST: *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Bennouna;

(b) By sixteen votes to one,

Finds that it is not necessary to examine the objection to its jurisdiction in so far as it concerns sovereignty over the other maritime features in dispute between the Parties and the maritime delimitation between the Parties;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judges* ad hoc Fortier, Gaja;

AGAINST: *Judge* Simma;

(3) As regards the jurisdiction of the Court,

(a) Unanimously,

Finds that it has jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to adjudicate upon the dispute concerning sovereignty over the maritime features claimed by the Parties other than the islands of San Andrés, Providencia and Santa Catalina;

(b) Unanimously,

Finds that it has jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to adjudicate upon the dispute concerning the maritime delimitation between the Parties."

*

Vice-President Al-Khasawneh appended a dissenting opinion to the Judgment of the Court; Judge Ranjeva appended a separate opinion; Judges Parra-Aranguren, Simma and Tomka appended declarations;

Judge Abraham appended a separate opinion; Judge Keith appended a declaration; Judge Bennouna appended a dissenting opinion; Judge *ad hoc* Gaja appended a declaration.

By an Order of 11 February 2008, the President of the Court fixed 11 November 2008 as the time-limit for the filing of the Counter-Memorial by Colombia.

7. *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*

On 9 December 2002, the Congo filed an Application instituting proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Denis Sassou Nguesso, the Congolese Minister of the Interior, Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux *Tribunal de grande instance* had issued a warrant for the President of the Republic of the Congo to be examined as witness.

The Congo contended that by

> "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country",

France had violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France had violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

In its Application, the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which would certainly be given". In accordance with that provision, the Application by the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

By a letter dated 8 April 2003 and received in the Registry on 11 April 2003 France stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that

> "Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

The Application of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux *Tribunal de grande instance*".

Public hearings were held on the request for the indication of a provisional measure from 28 to 29 April 2003. In its Order of 17 June 2003 (*I.C.J. Reports 2003*, p. 102), the Court declared that the circumstances, as they presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

The Memorial of the Republic of the Congo and the Counter-Memorial of France were filed within the time-limits fixed by the Order of 11 July 2003 (*I.C.J. Reports 2003*, p. 143).

By an Order of 17 June 2004 (*I.C.J. Reports 2004 (I)*, p. 130), the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Republic of the Congo and a Rejoinder by France, and fixed the time-limits for the filing of those pleadings. Following four successive requests for extensions to the time-limit for filing the Reply, the President of the Court fixed the time-limits for the filing of the Reply by the Republic of the Congo and the Rejoinder by France as 11 July 2006 and 11 August 2008 respectively. The Reply of the Republic of Congo was duly filed within the time-limit thus extended.

8. Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

In Article 2 of that Agreement, the Parties requested the Court:

> "to determine whether sovereignty over:
>
> *(a)* Pedra Branca/Pulau Batu Puteh;
> *(b)* Middle Rocks;
> *(c)* South Ledge,
>
> belongs to Malaysia or the Republic of Singapore".

In Article 6, the Parties "agree to accept the Judgment of the Court . . . as final and binding upon them".

The Parties further set out their views on the procedure to be followed.

By an Order of 1 September 2003 (*I.C.J. Reports 2003*, p. 146), the President of the Court, taking into account the provisions of Article 4 of the Special Agreement, fixed the time-limits for the filing, by each of the Parties, of a Memorial and a Counter-Memorial. Those pleadings were duly filed within the time-limits fixed.

By an Order of 1 February 2005 (*I.C.J. Reports 2005*, p. 3), the Court, taking into account the provisions of the Special Agreement, fixed 25 November 2005 as the time-limit for the filing of a Reply by each of the Parties.

The Replies were duly filed within the time-limit fixed. By a joint letter of 23 January 2006, the Parties informed the Court that they had agreed that there was no need for an exchange of Rejoinders in the case. The Court itself subsequently decided that no further pleadings were necessary, and that the written proceedings were then accordingly closed.

Public hearings were held from 6 to 23 November 2007. At the conclusion of those hearings, the Parties presented the following final submissions to the Court:

For Singapore:

> "The Government of the Republic of Singapore requests the Court to adjudge and declare that:
>
> *(a)* the Republic of Singapore has sovereignty over Pedra Branca/Pulau Batu Puteh;
> *(b)* the Republic of Singapore has sovereignty over Middle Rocks; and
> *(c)* the Republic of Singapore has sovereignty over South Ledge."

For Malaysia:

> "In accordance with Article 60, paragraph 2, of the Rules of Court, [Malaysia] respectfully request[s] the Court to adjudge and declare that sovereignty over:
>
> *(a)* Pedra Branca/Pulau Batu Puteh;
> *(b)* Middle Rocks;
> *(c)* South Ledge,
>
> belongs to Malaysia."

On 23 May 2008, the Court rendered its Judgment (*I.C.J. Reports 2008*, p. 12), a summary of which is given below, followed by the text of the operative paragraph:

Chronology of the procedure and submissions of the Parties (paras. 1-15)

The Court recites the history of the proceedings and submissions of the Parties in the case.

Geography, general historical background and history of the dispute (paras. 16-36)

Geography (paras. 16-19)

The Court first describes the geographical context of the dispute.

Pedra Branca/Pulau Batu Puteh is a granite island, measuring 137 m long, with an average width of 60 m and covering an area of about 8,560 sq m at low tide. It is situated at the eastern entrance of the Straits of Singapore, at the point where the latter open up into the South China Sea. Pedra Branca/Pulau Batu Puteh is located at 1° 19′ 48″ N and 104° 24′ 27″ E. It lies approximately 24 nautical miles to the east of Singapore, 7.7 nautical miles to the south of the Malaysian state of Johor and 7.6 nautical miles to the north of the Indonesian island of Bintan. The names Pedra Branca and Batu Puteh mean "white rock" in Portuguese and Malay respectively. On the island stands Horsburgh lighthouse, which was erected in the middle of the nineteenth century.

Middle Rocks and South Ledge are the two maritime features closest to Pedra Branca/Pulau Batu Puteh. Middle Rocks is located 0.6 nautical miles to the south and consists of two clusters of small rocks about 250 m apart that are permanently above water and stand 0.6 to 1.2 m high. South Ledge, at 2.2 nautical miles to the south-south-west of Pedra Branca/Pulau Batu Puteh, is a rock formation only visible at low tide. [See sketch-map No. 2 on page 283.]

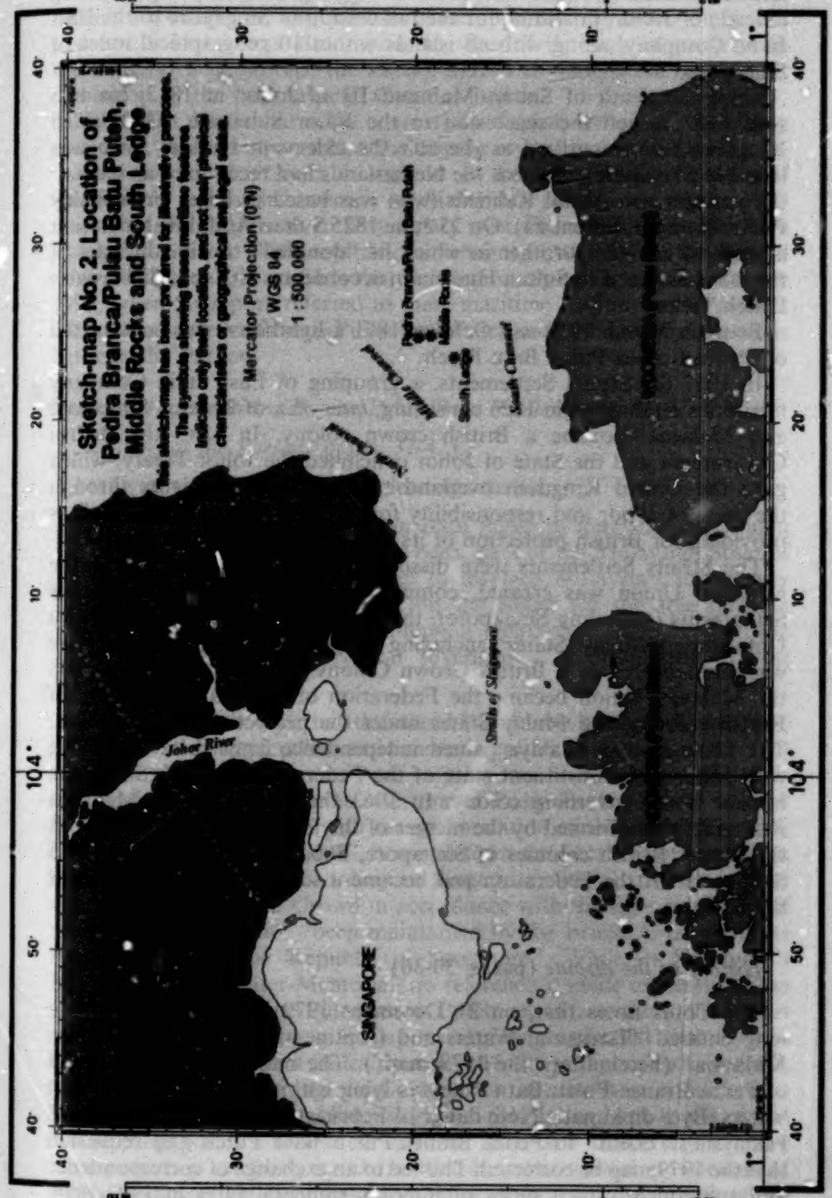
General historical background (paras. 20-29)

The Court then gives an overview of the complex historical background of the dispute between the Parties (only parts of which are referred to below).

The Sultanate of Johor was established following the capture of Malacca by the Portuguese in 1511. By the mid-1600s the Netherlands had wrested control over various regions in the area from Portugal. In 1795, the British established rule over several Dutch possessions in the Malay archipelago, but in 1814 returned the former Dutch possessions in the Malay archipelago to the Netherlands.

In 1819 a British "factory" (trading station) was established on Singapore island (which belonged to Johor) by the East India Company, acting as an agent of the British Government in various British possessions. This exacerbated the tension between the United Kingdom and the Netherlands arising out of their competing colonial ambitions in the region. On 17 March 1824 a treaty was signed between the two colonial Powers. As a consequence of this Treaty, one part of the Sultanate of Johor fell within the British sphere of influence while the other fell within the Dutch sphere of influence.

On 2 August 1824 a Treaty of Friendship and Alliance (hereinafter "the Crawfurd Treaty") was signed between the East India Company


Sketch-map No. 2. Location of
Pedra Branca/Pulau Batu Puteh,
Middle Rocks and South Ledge
This sketch-map has been prepared for illustrative purposes.
The symbols showing these maritime features
indicate only their location, and not their physical
characteristics or geographical and legal status.
Mercator Projection (0°N)
WGS 84
1 : 500 000
Pedra Branca/Pulau Batu Puteh
Middle Rocks
South Ledge
Middle Channel
North Channel
South Channel
Strait of Singapore
Johor River
SINGAPORE
104°
1°
10'
20'
30'
40'
50'

and the Sultan of Johor and the Temenggong (a Malay high-ranking official) of Johor, providing for the full cession of Singapore to the East India Company, along with all islands within 10 geographical miles of Singapore.

Since the death of Sultan Mahmud III of Johor in 1812, his two sons had claimed the succession to the Johor Sultanate. The United Kingdom had recognized as the heir the elder son Hussein (who was based in Singapore), whereas the Netherlands had recognized as the heir the younger son Abdul Rahman (who was based in Riau, present day Pulau Bintan in Indonesia). On 25 June 1825 Sultan Abdul Rahman sent a letter to his elder brother in which he "donated" to him the part of the lands assigned to Sultan Hussein in accordance with the 1824 Anglo-Dutch Treaty.

Between March 1850 and October 1851 a lighthouse was constructed on Pedra Branca/Pulau Batu Puteh.

In 1867 the Straits Settlements, a grouping of East India Company territories established in 1826 consisting, *inter alia*, of Penang, Singapore and Malacca, became a British crown colony. In 1885 the British Government and the State of Johor concluded the Johor Treaty, which gave the United Kingdom overland trade and transit rights through the State of Johor and responsibility for its foreign relations, as well as providing for British protection of its territorial integrity.

The Straits Settlements were dissolved in 1946; that same year the Malayan Union was created, comprising part of the former Straits Settlements (excluding Singapore), the Federated Malay States and five Unfederated Malay States (including Johor). From 1946, Singapore was administered as a British Crown Colony in its own right. In 1948 the Malayan Union became the Federation of Malaya, a grouping of British colonies and Malay States under the protection of the British. The Federation of Malaya gained independence from Britain in 1957, with Johor as a constituent state of the Federation. In 1958 Singapore became a self-governing colony. In 1963 the Federation of Malaysia was established, formed by the merger of the Federation of Malaya with the former British colonies of Singapore, Sabah and Sarawak. In 1965 Singapore left the Federation and became a sovereign and independent State.

History of the dispute (paras. 30-36)

The Court notes that, on 21 December 1979 Malaysia published a map entitled "Territorial Waters and Continental Shelf Boundaries of Malaysia" (hereinafter "the 1979 map"). The map depicted the island of Pedra Branca/Pulau Batu Puteh as lying within Malaysia's territorial waters. By a diplomatic Note dated 14 February 1980 Singapore rejected Malaysia's "claim" to Pedra Branca/Pulau Batu Puteh and requested that the 1979 map be corrected. This led to an exchange of correspondence and subsequently to a series of intergovernmental talks in 1993-1994, which did not bring a resolution of the matter. During the first round of talks in February 1993 the question of the appurtenance of Middle Rocks and South Ledge was also raised. In view of the lack of progress in the bilateral negotiations, the Parties agreed to submit the dispute for resolution by the International Court of Justice.

The Court recalls that in the context of a dispute related to sovereignty over land, the date upon which the dispute crystallized is of significance. In the view of the Court, it was on 14 February 1980, the time of Singapore's protest in response to Malaysia's publication of the 1979 map, that the dispute as to sovereignty over Pedra Branca/Pulau Batu Puteh crystallized. With regard to sovereignty over Middle Rocks and South Ledge, the Court finds that the dispute crystallized on 6 February 1993, when Singapore referred to these maritime features in the context of its claim to Pedra Branca/Pulau Batu Puteh during bilateral discussions between the Parties.

Sovereignty over Pedra Branca/Pulau Batu Puteh (paras. 37-277)

Positions of the Parties (paras. 37-42)

Malaysia states in its written pleadings that it

> "has an original title to Pulau Batu Puteh of long-standing. Pulau Batu Puteh is, and has always been, part of the Malaysian State of Johor. Nothing has happened to displace Malaysia's sovereignty over it. Singapore's presence on the island for the sole purpose of constructing and maintaining a lighthouse there – with the permission of the territorial sovereign – is insufficient to vest sovereignty in it."

Malaysia further says that the island "could not at any relevant time be considered as terra nullius and hence susceptible to acquisition through occupation".

Singapore claims that "the selection of Pedra Branca as the site for building of the lighthouse with the authorization of the British Crown", a process which started in 1847, "constituted a classic taking of possession *à titre de souverain*". According to Singapore, title to the island was acquired by the British Crown in accordance with the legal principles of that time and has since "been maintained by the British Crown and its lawful successor, the Republic of Singapore". While in Singapore's Memorial and Counter-Memorial, no reference is made expressly to the status of Pedra Branca/Pulau Batu Puteh as *terra nullius*, the Court observes that in its Reply Singapore expressly indicated that "[i]t is obvious that the status of Pedra Branca in 1847 was that of *terra nullius*".

In light of the foregoing, the Court notes that the issue is reduced to whether Malaysia can establish its original title dating back to the period before Singapore's activities of 1847 to 1851, and conversely whether Singapore can establish its claim that it took "lawful possession of Pedra Branca/Pulau Batu Puteh" at some stage from the middle of the nineteenth century when the construction of the lighthouse by agents of the British Crown started.

The question of the burden of proof (paras. 43-45)

On this question, the Court reaffirms that it is a general principle of law, confirmed by its jurisprudence, that a party which advances a point of fact in support of its claim must establish that fact.

Legal status of Pedra Branca/Pulau Batu Puteh before the 1840s (paras. 46-117)

Original title to Pedra Branca/Pulau Batu Puteh (paras. 46-80)

The Court starts by observing that it is not disputed that the Sultanate of Johor, since it came into existence in 1512, established itself as a sovereign State with a certain territorial domain under its sovereignty in part of south-east Asia. Having examined the arguments of the Parties, the Court notes that, from at least the seventeenth century until early in the nineteenth, it was acknowledged that the territorial and maritime domain of the Kingdom of Johor comprised a considerable portion of the Malaya Peninsula, straddled the Straits of Singapore and included islands and islets in the area of the Straits – where Pedra Branca/Pulau Batu Puteh is located.

The Court then moves to ascertain whether the original title to Pedra Branca/Pulau Batu Puteh claimed by Malaysia is founded in law.

Of significance is the fact that Pedra Branca/Pulau Batu Puteh had always been known as a navigational hazard in the Straits of Singapore. Therefore the island evidently was not *terra incognita*. The fact that there is no evidence throughout the entire history of the old Sultanate of Johor that any competing claim had ever been advanced over the islands in the area of the Straits of Singapore is another significant factor.

The Court recalls the pronouncement made by the Permanent Court of International Justice (PCIJ) in the case concerning the *Legal Status of Eastern Greenland*, on the significance of the absence of rival claims. The PCIJ then noted that, while "[i]n most of the cases involving claims to territorial sovereignty . . . there have been two competing claims to the sovereignty", in the case before it "up to 1931 there was no claim by any Power other than Denmark to the sovereignty over Greenland". The PCIJ therefore concluded that, considering the

> "inaccessible character of the uncolonized parts of the country, the King of Denmark and Norway displayed . . . in 1721 to 1814 his authority to an extent sufficient to give his country a valid claim to sovereignty, and that his rights over Greenland were not limited to the colonized area".

The Court observes that this conclusion also applies to the present case involving a tiny uninhabited and uninhabitable island, to which no claim of sovereignty had been made by any other Power throughout the years from the early sixteenth century until the middle of the nineteenth century. In that context the Court also notes that State authority should not necessarily be displayed "in fact at every moment on every point of a territory", as shown in the *Island of Palmas Case (Netherlands/United States of America)*.

The Court concludes from the foregoing that the territorial domain of the Sultanate of Johor covered in principle all the islands and islets within the Straits of Singapore, including the island of Pedra Branca/Pulau Batu Puteh. It finds that this possession of the islands by the Sultanate was never challenged by any other Power in the region and can in all the circumstances be seen as satisfying the condition of "continuous and peaceful display of territorial sovereignty". The Court thus concludes that the Sultanate of Johor had original title to Pedra Branca/Pulau Batu Puteh.

Examining the ties of loyalty that existed between the Sultanate of Johor and the Orang Laut ("the people of the sea"), who were engaged in fishing and piratical activities in the Straits of Singapore, the Court finds that the descriptions, in contemporary official reports by British officials, of the nature and the level of relationship between the Sultan of Johor and the Orang Laut confirm the ancient original title of the Sultanate of Johor to those islands, including Pedra Branca/Pulau Batu Puteh.

The Court then turns to the question whether this title was affected by the developments in the period 1824 to 1840.

The legal significance of the 1824 Anglo-Dutch Treaty (paras. 81-101)

First the Court notes that documentary evidence conclusively shows that the Sultanate of Johor continued to exist as the same sovereign entity throughout the period 1512 to 1824, in spite of changes in the precise geographical scope of its territorial domain and vicissitudes of fortune in the Sultanate through the ages, and that these changes and vicissitudes did not affect the legal situation in relation to the area of the Singapore Straits, which always remained within the territorial domain of the Sultanate of Johor.

Second, the Court observes that it is common ground between the Parties that the 1824 Anglo-Dutch Treaty divided the region into two parts – one belonging to the Dutch sphere of influence (the Riau-Lingga Sultanate under Abdul Rahman) and the other falling under the British sphere of influence (the Sultanate of Johor under Hussein). However, Singapore appears to claim that the Treaty left the entire Straits aside, and that Pedra Branca/Pulau Batu Puteh had remained *terra nullius* or had become *terra nullius* as a result of the division of the "old Sultanate of Johor", thus leaving room for the "lawful possession" of Pedra Branca/Pulau Batu Puteh by the British during the period 1847-1851.

After careful analysis of the text of the 1824 Anglo-Dutch Treaty, the Court concludes that the Treaty was the legal reflection of a political settlement reached between the two colonial Powers to divide the territorial domain of the old Sultanate of Johor into two sultanates to be placed under their respective spheres of influence. Thus in this scheme there was no possibility for any legal vacuum left for freedom of action to take lawful possession of an island in between these two spheres of influence.

The general reference in Article 12 of the Treaty to "the other Islands south of the Straights of Singapore" would suggest that all the islands and islets within the Straits fell within the British sphere of influence. This naturally covered the island of Pedra Branca/Pulau Batu Puteh, which thus remained part of what continued to be called the "Sultanate of Johor" after the division of the old Sultanate.

The relevance of the 1824 Crawfurd Treaty (paras. 102-107)

The Court considers the relevance to the dispute of the "Crawfurd Treaty", by which the Sultan and Temenggong of Johor ceded the island of Singapore to the East India Company. The Court states that the Treaty cannot be relied on as establishing "British recognition of prior and continuing sovereignty of the Sultanate of Johor over all other islands in and around the Strait of Singapore", including Pedra Branca/Pulau Batu Puteh, as Malaysia claimed. The Court however notes that this finding does not signify *a contrario* that the islands in the Straits of Singapore falling outside the scope of Article II of this Treaty were *terrae nullius* and could be subject to appropriation through "lawful occupation" either. This latter point can only be judged in the context of what legal effect the division of the old Sultanate of Johor had upon the islands in the area of the Straits of Singapore, in particular in light of the 1824 Anglo-Dutch Treaty and in light of the legal relevance, *vel non*, of the so-called letter "of donation" of 1825 sent from Sultan Abdul Rahman of Riau-Lingga to his brother Sultan Hussein of Johor.

The legal significance of the letter "of donation" of 1825 (paras. 108-116)

The Court examines whether the letter "of donation" from Sultan Abdul Rahman to his brother Hussein had the legal effect of transferring the title to the territory included in that letter "of donation". The Court notes that the so-called letter "of donation" from Sultan Abdul Rahman to his brother Hussein merely confirmed the division agreed upon by the 1824 Anglo-Dutch Treaty and therefore was without legal effect.

Conclusion (para. 117)

The Court concludes that Malaysia has established to its satisfaction that as of the time when the British started their preparations for the construction of the lighthouse on Pedra Branca/Pulau Batu Puteh in 1844, this island was under the sovereignty of the Sultan of Johor.

Legal status of Pedra Branca/Pulau Batu Puteh after the 1840s (paras. 118-272)

The Court observes that in order to determine whether Malaysia has retained sovereignty over Pedra Branca/Pulau Batu Puteh following 1844 or whether sovereignty has since passed to Singapore, it needs to assess the relevant facts – consisting mainly of the conduct of the Parties during that period – by reference to the governing principles and rules of international law.

Applicable law (paras. 118-125)

It notes that any passing of sovereignty might be by way of agreement between the two States in question. Such an agreement might take the form of a treaty, as with the 1824 Crawfurd Treaty and the 1927 Agreement referred to earlier. The agreement might instead be tacit and arise from the conduct of the Parties. In this matter international law does not impose any particular form but places its emphasis on the parties' intentions. Sovereignty over territory might under certain circumstances pass as a result of the failure of the State which has sovereignty to respond to conduct *à titre de souverain* of the other State or to concrete manifestations of the display of territorial sovereignty by the other State. Such manifestations of the display of sovereignty may call for a response if they are not to be opposable to the State in question. The absence of reaction may well amount to acquiescence. That is to say, silence may also speak, but only if the conduct of the other State calls for a response. Critical for the Court's assessment of the conduct of the Parties is the central importance in international law and relations of State sovereignty over territory and of the stability and certainty of that sovereignty. Because of that, any passing of sovereignty over territory on the basis of the conduct of the Parties must be manifested clearly and without any doubt by that conduct and the relevant facts.

The process for the selection of the site for Horsburgh lighthouse (paras. 126-148)

In 1836 merchants and mariners expressed the wish to build one or more lighthouses in memory of James Horsburgh, a hydrographer to the East Indies Company. In November 1836 "Pedra Branca" was identified as a preferred location. In a letter sent to the Governor of Singapore on 1 March 1842 "Pedra Branca" was the only locality specifically mentioned. The Court notes that, in this first formal communication, the private commercial interests recognized that the British Government would have to carry the proposal into effect and provide the additional funds.

In the ensuing correspondence between the subscribers and the British authorities several alternative locations were envisaged. By October 1844, the island of Peak Rock was identified as the most eligible site. In late November W. J. Butterworth, who had become Governor of the Straits

Settlements in 1843, received replies to letters which he had written to the Sultan and Temenggong of Johor. Notwithstanding the Parties' extensive research, the Governor's letters have not been found, but the Parties did provide to the Court copies of the translations of the replies, both dated 25 November 1844, in which the Sultan and the Temenggong consented to the construction of a lighthouse in the Straits of Singapore, without mentioning the exact location.

Examining whether Johor ceded sovereignty over the particular piece of territory which the United Kingdom would select for the construction and operation of the lighthouse for the stated purpose or granted permission only to that construction and operation, the Court finds that the correspondence is not conclusive.

Given the lack of any written agreement relating to the modalities of the maintenance of the lighthouse and the island on which it was to be constructed, the Court considers that it is not in a position to resolve the issue about the content of any possible agreement reached in November 1844.

The construction and commissioning of Horsburgh lighthouse, 1850-1851 (paras. 149-163)

The Court notes that the planning for the construction and the construction itself were in the hands of the Government Surveyor of Singapore, John Thomson, who was appointed as Architect of the project by Governor Butterworth. In December 1849 the Government Surveyor began organizing the construction. On 24 May 1850 the foundation stone was laid. The Court takes note of the fact that no Johor authorities were present at the ceremony. There is no indication that they were even invited by the Governor to attend. That might suggest that the British and Singapore authorities did not consider it necessary to apprise Johor of their activities on Pedra Branca/Pulau Batu Puteh. The Temenggong of Johor visited the rock only once, nine days after the laying of the foundation stone, accompanied by 30 of his followers.

After describing the modalities of the construction and commissioning of the lighthouse, the Court notes that it cannot draw any conclusions with regard to sovereignty. Rather it sees those events as bearing on the issue of the evolving views of the authorities in Johor and in Singapore about sovereignty over Pedra Branca/Pulau Batu Puteh.

The conduct of the Parties, 1852-1952 (paras. 164-191)

The Court first considers the ***Straits lights system and related British and Singapore legislation***. It notes that as a matter of law, a lighthouse may be built on the territory of one State and administered by another State – with the consent of the first State. A central element in Malaysia's argument is that because Horsburgh lighthouse was built on an island over which Johor was sovereign all the actions of the British authorities and, following them, the Singaporean authorities, are simply actions pursued in the normal course of the operation of the lighthouse.

Singapore, by contrast, says that some of the actions are not matters simply of the operation of the lighthouse but are, in whole or part, acts *à titre de souverain*. Singapore refers to legislation enacted by itself and its predecessors in title, which regulated the defraying of costs of establishing and operating the lighthouse, vesting control of it under various governmental bodies, and regulating the activities of persons residing, visiting and working on Pedra Branca/Pulau Batu Puteh. In the Court's view however the provisions invoked by Singapore do not as such demonstrate British sovereignty over the areas to which they apply, because they applied equally to lighthouses which are undoubtedly on Johor territory as well as to that on Pedra Branca/Pulau Batu Puteh and, moreover, say nothing expressly about sovereignty.

Turning to the various *constitutional developments* invoked by Malaysia, including the 1927 Straits Settlement and Johor Territorial Waters Agreement, the Court considers that they do not help resolve the question of sovereignty over Pedra Branca/Pulau Batu Puteh. It observes that the purpose of the Agreement was to "retrocede" to Johor certain areas that had been ceded by Johor to the East India Company in 1824 and were all within 10 miles of the main island of Singapore. They could not have included Pedra Branca/Pulau Batu Puteh, as the island was not within the scope of the Agreement.

With respect to Malaysia's contention that the Temenggong continued to *control fishing* in the neighbourhood of Pedra Branca/Pulau Batu Puteh after the construction of the lighthouse, as shown by an exchange of correspondence between Johor and the British authorities in Singapore in 1861, the Court observes that the letters relate to events occurring within 10 miles of the island of Singapore. Therefore nothing can be made of the fact that the Singapore authorities did not in that context refer to jurisdiction over the waters of Pedra Branca/Pulau Batu Puteh.

The 1953 correspondence (paras. 192-230)

The Court notes that on 12 June 1953 the Colonial Secretary of Singapore wrote to the British Adviser to the Sultan of Johor, that he was "directed to ask for information about the rock some 40 miles from Singapore known as Pedra Branca" in the context of "the determination of the boundaries of the Colony's territorial waters". Acknowledging that in the case of Pulau Pisang, an island "which is also outside the Treaty limits of the colony" it was "clear that there was no abrogation of the sovereignty of Johore", the Secretary asked to be informed of "any document showing a lease or grant of the rock or whether it ha[d] been ceded by the Government of the State of Johore or in any other way disposed of". Later in that month the Secretary to the British Adviser to the Sultan of Johor advised the Colonial Secretary that he had passed the letter to the State Secretary of Johor, who would "doubtless wish to consult with the Commissioner for Lands and Mines and Chief Surveyor and any existing archives before forwarding the views of the State Government to the Chief Secretary". In a letter dated 21 September 1953, the Acting State Secretary of Johor replied that "the Johore Government [did] not claim ownership of Pedra Branca".

The Court considers that this correspondence and its interpretation are of central importance for determining the developing understanding of the two Parties about sovereignty over Pedra Branca/Pulau Batu Puteh.

The Court notes that the Singapore letter of 12 June 1953 seeks information about "the rock" as a whole and not simply about the lighthouse in light of the determination of the Colony's territorial waters, a matter which is dependent on sovereignty over the island. The Court notes that the letter had the effect of putting the Johor authorities on notice that in 1953 the Singapore authorities understood that their predecessors thought that Pedra Branca/Pulau Batu Puteh had been ceded "gratuitously" by the Sultan and the Temenggong to the East India Company. The Court reads the letter as showing that the Singapore authorities were not clear about events occurring over a century earlier and that they were not sure that their records were complete.

Turning to the reply from the Acting State Secretary of Johor, the Court dismisses the Malaysian contention that, under the provisions of the Johor Agreement between the British Crown and the Sultan of Johor and the Federation of Malaya Agreement between the British Crown and nine Malay states (including Johor), the Acting State Secretary "was definitely not authorized" and did not have "the legal capacity to write the 1953 letter, or to renounce, disclaim, or confirm title of any part of the territories of Johore".

The Court considers that the Johor Agreement is not relevant since the correspondence was initiated by a representative of Her Britannic Majesty's Government which at that time was not to be seen as a foreign State; further, it was the British Adviser to the Sultan of Johor who passed the initial letter on to the Secretary of State of the Sultanate. The Court is also of the view that the Federation of Malaya Agreement does not assist the Malaysian argument because the action of responding to a request for information is not an "exercise" of "executive authority". Moreover, the failure of Malaysia to invoke this argument, both throughout the whole period of bilateral negotiations with Singapore and in the proceedings until late in the oral phase, lends support to the presumption of regularity invoked by Singapore.

Examining the 1953 letter's content, the Court expresses the view that the Johor reply is clear in its meaning: Johor does not claim ownership over Pedra Branca/Pulau Batu Puteh. That response relates to the island as a whole and not simply to the lighthouse. When the Johor letter is read in the context of the request by Singapore for elements of information bearing on the status of Pedra Branca/Pulau Batu Puteh, as discussed above, it becomes evident that the letter addresses the issue of sovereignty over the island. The Court accordingly concludes that Johor's reply shows that as of 1953 Johor understood that it did not have sovereignty over Pedra Branca/Pulau Batu Puteh. In light of Johor's reply, the authorities in Singapore had no reason to doubt that the United Kingdom had sovereignty over the island.

The steps taken by the Singapore authorities in reaction to the final response were not known to the Johor authorities and have limited significance for the Court's assessment of any evolving understanding shared by the Parties. The case file shows that, on receipt of the Johor reply, the Colonial Secretary of Singapore sent an internal memorandum to the Attorney-General saying that he thought that "[o]n the strength of [the reply], we can claim Pedra Branca . . ." The Attorney-General stated that he agreed. The Singapore authorities, so far as the case file shows, took no further action. They had already received related communications from London, to which the Court now turns.

The conduct of the Parties after 1953 (paras. 231-272)

The Court first takes into consideration Singapore's contention that it and its predecessors have exercised sovereign authority over Pedra Branca/Pulau Batu Puteh by *investigating shipwrecks* within the island's territorial waters. Concluding that this conduct gives significant support to the Singapore case, the Court also recalls that it was only in June 2003, after the Special Agreement submitting the dispute to the Court had come into force, that Malaysia protested against this category of Singapore conduct.

After examining the argument of Singapore's exercise of exclusive *control over visits* to Pedra Branca/Pulau Batu Puteh and the use of the island by officials from Singapore as well as from other States, including Malaysia, the Court states that many of the visits by Singaporean personnel related to the maintenance and operation of the lighthouse and are not significant in the case. However it finds that the conduct of Singapore with respect to permissions granted or not granted to Malaysian officials in the context of a survey of the waters surrounding the island in 1978 is to be seen as conduct *à titre de souverain* and does give significant support to Singapore's claim to sovereignty over Pedra Branca/Pulau Batu Puteh.

Both Parties contend that their *naval patrols and exercises* around Pedra Branca/Pulau Batu Puteh since the formation of their respective navies constitute displays of their sovereign rights over the island. The Court does not see this activity as significant on one side or the other. It observes that naval vessels operating from Singapore harbour would as a matter of geographical necessity often have to pass near Pedra Branca/Pulau Batu Puteh.

As for Singapore's claim that the *flying of the British and Singapore ensigns* from Horsburgh lighthouse from the time of its commissioning to this day is also a clear display of sovereignty, the Court states that the flying of an ensign is not in the usual case a manifestation of sovereignty. It considers that some weight may nevertheless be given to the fact that Malaysia did not protest against the ensign flying at Horsburgh lighthouse.

The Court then looks into the *installation of a relay station by the Singapore Navy*, in May 1977, for a military rebroadcast station on Pedra Branca/Pulau Batu Puteh. Singapore contends that the installation was carried out openly. Malaysia asserts that the installation was undertaken secretly and that it became aware of it only on receipt of Singapore's Memorial. The Court is not able to assess the strength of the assertions made on the two sides about Malaysia's knowledge of the installation. The conduct is inconsistent with Singapore recognizing any limit on its freedom of action.

As for the *plans to reclaim areas around Pedra Branca/Pulau Batu Puteh*, which had been considered on various occasions in the 1970s by the Port of Singapore Authority, the Court observes that while the reclamation was not proceeded with and some of the documents were not public, the tender advertisement was public and attracted replies. Further the proposed action, as advertised, did go beyond the maintenance and operation of the lighthouse. It is conduct which supports Singapore's case.

In 1968 the Government of Malaysia and the Continental Oil Company of Malaysia concluded an *agreement authorizing petroleum exploration* in the whole of the area of the continental shelf off the east coast of West Malaysia. Given the territorial limits and qualifications in the concession and the lack of publicity of the co-ordinates, the Court does not consider that weight can be given to the concession.

By legislation of 1969 *Malaysia extended its territorial* waters from 3 to 12 nautical miles. Malaysia contends that the legislation "extended Malaysian territorial waters to and beyond Pulau Batu Puteh". The Court notes however that the said legislation does not identify the areas to which it is to apply except in the most general sense: it says only that it applies "throughout Malaysia".

Malaysia invokes several *territorial agreements* to support its claim to sovereignty over Pedra Branca/Pulau Batu Puteh: the Indonesia Malaysia Continental Shelf Agreement of 1969, the Territorial Sea Agreement of 1970 and the Indonesia Singapore Territorial Sea Agreement of 1973. The Court does not consider that those agreements can be given any weight in respect of sovereignty over Pedra Branca/Pulau Batu Puteh, since they did not cover this issue. The Court similarly does not see as significant for the purposes of the proceedings the co-operation in the Straits of Malacca and Singapore adopted in 1971 by Indonesia, Malaysia and Singapore, which was invoked by Singapore.

The Court also dismisses as non-authoritative and essentially descriptive certain *official publications* of the Government of Singapore describing its territory, which in the view of Malaysia are notable for their absence of any reference to Pedra Branca/Pulau Batu Puteh among the approximately 60 islands that are included in those descriptions.

Finally, the Court turns to nearly a hundred *official maps* submitted by the Parties. Malaysia emphasizes that of all the maps before the Court only one published by the Singapore Government included Pedra Branca/

Pulau Batu Puteh as within its territory and that map was not published until 1995. The Court recalls that Singapore did not, until 1995, publish any map including Pedra Branca/Pulau Batu Puteh within its territory. But that failure to act is in the view of the Court of much less weight than the weight to be accorded to the maps published by Malaya and Malaysia between 1962 and 1975. The Court concludes that those maps tend to confirm that Malaysia considered that Pedra Branca/Pulau Batu Puteh fell under the sovereignty of Singapore.

Conclusion (paras. 273-277)

The Court is of the opinion that the relevant facts, including the conduct of the Parties, reflect a convergent evolution of the positions of the Parties regarding title to Pedra Branca/Pulau Batu Puteh. The Court concludes, especially by reference to the conduct of Singapore and its predecessors *à titre de souverain*, taken together with the conduct of Malaysia and its predecessors including their failure to respond to the conduct of Singapore and its predecessors, that by 1980 sovereignty over Pedra Branca/Pulau Batu Puteh had passed to Singapore.

For the foregoing reasons, the Court concludes that sovereignty over Pedra Branca/Pulau Batu Puteh belongs to Singapore.

Sovereignty over Middle Rocks and South Ledge (paras. 278-299)

Arguments of the Parties (paras. 278-287)

The Court notes that Singapore's position is that sovereignty in respect of Middle Rocks and South Ledge goes together with sovereignty over Pedra Branca/Pulau Batu Puteh. Thus, according to Singapore, whoever owns Pedra Branca/Pulau Batu Puteh owns Middle Rocks and South Ledge, which, it claims, are dependencies of the island of Pedra Branca/Pulau Batu Puteh and form with the latter a single group of maritime features. Malaysia on the other hand argues that these three features do not constitute one identifiable group of islands in historical or geomorphological terms, and adds that they have always been considered as features falling within Johor/Malaysian jurisdiction.

Legal status of Middle Rocks (paras. 288-290)

The Court first observes that the issue of the legal status of Middle Rocks is to be assessed in the context of its reasoning on the principal issue in the case. It recalls that it has reached the conclusion that sovereignty over Pedra Branca/Pulau Batu Puteh rests with Singapore under the particular circumstances surrounding the case. However these circumstances clearly do not apply to other maritime features in the vicinity of Pedra Branca/Pulau Batu Puteh, i.e., Middle Rocks and South Ledge. None of the conduct of the Parties reviewed in the previous part of the Judgment has any application to the case of Middle Rocks.

The Court therefore finds that original title to Middle Rocks should remain with Malaysia as the successor to the Sultan of Johor.

Legal status of South Ledge (paras. 291-299)

With regard to South Ledge, the Court however notes that there are special problems to be considered, inasmuch as South Ledge presents a special geographical feature as a low-tide elevation.

The Court recalls Article 13 of the United Nations Convention on the Law of the Sea and considers its previous jurisprudence, the arguments of the Parties, as well as the evidence presented before it.

The Court notes that South Ledge falls within the apparently overlapping territorial waters generated by the mainland of Malaysia, by Pedra Branca/Pulau Batu Puteh and by Middle Rocks. It recalls that in the Special Agreement and in the final submissions it has been specifically asked by the Parties to decide the matter of sovereignty separately for each of the three maritime features. At the same time the Court observes that it has not been mandated by the Parties to draw the line of delimitation with respect to the territorial waters of Malaysia and Singapore in the area in question.

In these circumstances, the Court concludes that sovereignty over South Ledge, as a low-tide elevation, belongs to the State in the territorial waters of which it is located.

Operative clause (para. 300)

"For these reasons,

THE COURT,

(1) By twelve votes to four,

Finds that sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore;

IN FAVOUR: *Vice-President, Acting President,* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Buergenthal, Owada, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Sreenivasa Rao;

AGAINST: *Judges* Parra-Aranguren, Simma, Abraham; *Judge* ad hoc Dugard;

(2) By fifteen votes to one,

Finds that sovereignty over Middle Rocks belongs to Malaysia;

IN FAVOUR: *Vice-President, Acting President,* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Dugard;

AGAINST: *Judge* ad hoc Sreenivasa Rao;

(3) By fifteen votes to one,

Finds that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located.

IN FAVOUR: *Vice-President, Acting President*, Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judges* ad hoc Dugard, Sreenivasa Rao;

AGAINST: *Judge* Parra-Aranguren.

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Judge Ranjeva appended a declaration to the Judgment of the Court; Judge Parra-Aranguren appended a separate opinion; Judges Simma and Abraham appended a joint dissenting opinion; Judge Bennouna appended a declaration; Judge *ad hoc* Dugard appended a separate opinion; Judge *ad hoc* Sreenivasa Rao appended a separate opinion.

9. Maritime Delimitation in the Black Sea (Romania v. *Ukraine)*

On 16 September 2004, Romania filed an Application instituting proceedings against Ukraine in respect of a dispute concerning

> "the establishment of a single maritime boundary between the two States in the Black Sea, thereby delimiting the continental shelf and the exclusive economic zones appertaining to them".

In its Application Romania explained that, "following a complex process of negotiations", Ukraine and Romania had signed on 2 June 1997 the Treaty on Relations of Co-operation and Good-Neighbourliness, and had concluded an Additional Agreement by an exchange of letters between their respective Ministers for Foreign Affairs. Both instruments had entered into force on 22 October 1997. By those agreements,

> "the two States assumed the obligation to conclude a Treaty on the State Border Régime between them, as well as an Agreement for the delimitation of the continental shelf and the exclusive economic zones . . . in the Black Sea".

At the same time,

> "the Additional Agreement provided for the principles to be applied in the delimitation of the above-mentioned areas, and set out the commitment of the two countries that the dispute could be submitted to the ICJ, subject to the fulfilment of certain conditions".

Between 1998 and 2004, 24 rounds of negotiations were held. However, according to Romania, "no result was obtained and an agreed delimitation of the maritime areas in the Black Sea was not accomplished". Romania had brought the matter before the Court "in order to avoid the indefinite prolongation of discussions that, in [its] opinion, obviously cannot lead to any outcome".

Romania requested the Court

> "to draw in accordance with international law, and specifically the criteria laid down in Article 4 of the Additional Agreement, a single maritime boundary between the continental shelf and the exclusive economic zone of the two States in the Black Sea".

As basis for the Court's jurisdiction, Romania invoked Article 4 *(h)* of the Additional Agreement, which provides:

> "If these negotiations [referred to above] shall not determine the conclusion of the above-mentioned agreement [on the delimitation of the continental shelf and the exclusive economic zones in the Black Sea] in a reasonable period of time, but not later than 2 years since their initiation, the Government of Romania and the Government of Ukraine have agreed that the problem of delimitation of the continental shelf and the exclusive economic zones shall be solved by the United Nations International Court of Justice, at the request of any of the parties, provided that the Treaty on the regime of the State border between Romania and Ukraine has entered into force. However, should the International Court of Justice consider that the delay of the entering into force of the Treaty on the regime of the State border is the result of the other Party's fault, it may examine the request concerning the delimitation of the continental shelf and the exclusive economic zones before the entering into force of this Treaty."

Romania contended that the two conditions set out in Article 4 *(h)* of the Additional Agreement had been fulfilled, since the negotiations had by far exceeded two years and the Treaty on the State Border Régime had entered into force on 27 May 2004.

The Memorial of Romania and the Counter-Memorial of Ukraine were filed within the time-limits fixed by the Order of 19 November 2004. By an Order of 30 June 2006, the Court authorized the filing of a Reply by Romania and a Rejoinder by Ukraine and fixed 22 December 2006 and 15 June 2007 as the respective time-limits for the filing of those pleadings. Romania filed its Reply within the time-limit set. By an Order of 8 June 2007, the Court extended to 6 July 2007 the time-limit for the filing of the Rejoinder by Ukraine. The Rejoinder was duly filed within the time-limit thus extended. At the time of preparation of this *Yearbook*, the case was therefore ready for hearing.

10. Dispute regarding Navigational and Related Rights (Costa Rica v. *Nicaragua)*

On 29 September 2005, Costa Rica filed an Application instituting proceedings against Nicaragua in a dispute concerning navigational and related rights of Costa Rica on the San Juan River.

In its Application Costa Rica stated that it sought "the cessation of the [Nicaraguan] conduct which prevents the free and full exercise and enjoyment of the rights that Costa Rica possesses on the San Juan River, and which also prevents Costa Rica from fulfilling its responsibilities" under certain agreements between itself and Nicaragua. Costa Rica requested the Court to determine the reparation which must be made by Nicaragua. Costa Rica contended that "Nicaragua has – in particular since the late 1990s – imposed a number of restrictions on the navigation of Costa Rican boats and their passengers on the San Juan River", in violation of "Article VI of the Treaty of Limits [signed in 1858 between Costa Rica and Nicaragua, which] granted to Nicaragua sovereignty over the waters of the San Juan River, recognizing at the same time important rights to Costa Rica". Costa Rica maintained that those rights were confirmed and interpreted by an arbitral award issued by the President of the United States of America, Grover Cleveland, on 28 March 1888, and by a judgment of the Central American Court of Justice of 1916, as well as by the "Agreement Supplementary to Article IV of the [1949] Pact of Amity" [signed in] Washington, [on] 9 January 1956. Costa Rica further contended that "these restrictions are of a continuing character".

As basis of jurisdiction Costa Rica invoked the declarations of acceptance of the Court's jurisdiction made by the Parties under Article 36, paragraph 2, of the Statute, as well as the Tovar-Caldera Agreement signed between the Parties on 26 September 2002. Costa Rica also relies on Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of Article XXXI of the "Pact of Bogotá" of April 1948.

Costa Rica filed its Memorial and Nicaragua its Counter-Memorial within the time-limits fixed by the Order of 29 November 2005 (*I.C.J. Reports 2005*, p. 165).

Copies of the pleadings and documents annexed were requested by the Government of Colombia. Pursuant to Article 53, paragraph 1, of the Rules of Court, after ascertaining the views of the Parties and taking account of the views expressed by them, the Court decided not to accede to that request for the time being.

By an Order of 9 October 2007, the Court authorized the submission of a Reply by Costa Rica and a Rejoinder by Nicaragua. Those pleadings were filed within the time-limits prescribed. At the time of preparation of this *Yearbook*, the case was therefore ready for hearing.

11. Pulp Mills on the River Uruguay (Argentina v. *Uruguay)*

On 4 May 2006 Argentina filed an Application instituting proceedings against Uruguay concerning alleged breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty signed between the two States on 26 February 1975 (hereinafter referred to as the 1975 Statute) for the purpose of establishing the joint machinery necessary for the optimum and rational utilization of that part of the river which constitutes their joint boundary.

In its Application Argentina charged the Government of Uruguay with having unilaterally authorized the construction of two pulp mills on the River Uruguay without complying with the obligatory prior notification and consultation procedures under the 1975 Statute. Argentina claimed that those mills posed a threat to the river and its environment, and were likely to impair the quality of the river's waters and to cause significant transboundary damage to Argentina.

As basis for the Court's jurisdiction, Argentina cited the first paragraph of Article 60 of the 1975 Statute, which provides that any dispute concerning the interpretation or application of that Statute which cannot be settled by direct negotiations may be submitted by either party to the Court.

Argentina's Application was accompanied by a request for the indication of provisional measures, whereby Argentina asked that Uruguay be ordered to suspend the authorizations for construction of the mills and all building works pending a final decision by the Court, to co-operate with Argentina with a view to protecting and conserving the aquatic environment of the River Uruguay, and to refrain from taking any further unilateral action with respect to construction of the two mills incompatible with the 1975 Statute and from any other action which might aggravate the dispute or render its settlement more difficult.

Public hearings on the request for the indication of provisional measures were held on 8 and 9 June 2006. By its Order of 13 July 2006, the Court found that the circumstances, as they then presented themselves, were not such as to require the exercise of its power under Article 41 of its Statute to indicate provisional measures.

On 29 November 2006, Uruguay in turn submitted a request for the indication of provisional measures on the ground that, from 20 November 2006, organized groups of Argentine citizens had blockaded a "vital international bridge", that this action was causing it considerable economic prejudice and that Argentina had taken no action to end the blockade. Concluding its request, Uruguay requested the Court to order Argentina to take "all reasonable and appropriate steps . . . to prevent or end the interruption of transit between Uruguay and Argentina, including the blockading of bridges or roads between the two States"; to abstain "from any measure that might aggravate, extend or make more difficult the settlement of this dispute" and, finally, to abstain "from any other measure which might prejudice the rights of Uruguay in dispute before the Court". Public hearings were held on 18 and 19 December 2006 on the request for the indication of provisional measures. By its Order of 23 January 2007 the Court found that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

Argentina filed its Memorial and Uruguay its Counter-Memorial within the time-limits fixed by the Order of 13 July 2006.

By an Order of 14 September 2007, the Court authorized the submission of a Reply by Argentina and a Rejoinder by Uruguay. Those pleadings were filed within the time-limits prescribed. At the time of preparation of this *Yearbook*, the case was therefore ready for hearing.

12. *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*

On 9 January 2006 the Republic of Djibouti filed an Application instituting proceedings against France concerning

> "the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the Case against X for the murder of Bernard Borrel".

Djibouti maintains that the refusal constitutes a violation of France's international obligations under the Treaty of Friendship and Co-operation signed by the two States on 27 June 1977 and the Convention on Mutual Assistance in Criminal Matters between France and Djibouti, dated 27 September 1986. Djibouti further asserts that, in summoning certain internationally-protected nationals of Djibouti, including the Head of State, as *témoins assistés* [legally represented witnesses] in connection with a criminal complaint for subornation of perjury against X in the Borrel case, France has violated its obligation to prevent attacks on the person, freedom or dignity of persons enjoying such protection.

In its Application, the Republic of Djibouti stated that it intended to found the jurisdiction of the Court on Article 38, paragraph 5, of the Rules of Court, adding that it was "confident that the French Republic w[ould] agree to submit to the jurisdiction of the Court to settle the present dispute". In accordance with that Article, the Application by the Republic of Djibouti was transmitted to the French Government.

In a letter dated 25 July 2006, the French Republic specified that it "consent[ed] to the Court's jurisdiction to entertain the Application pursuant to, and solely on the basis of, said Article 38, paragraph 5". That consent made it possible to enter the case in the Court's List and to open the proceedings.

The Memorial of Djibouti and the Counter-Memorial of France were filed within the time-limits prescribed by an Order of 15 November 2006.

Public hearings were held from 21 January 2008 to 29 January 2008. At the conclusion of those hearings, the Parties presented the following final submissions to the Court:

For Djibouti:

> "The Republic of Djibouti requests the Court to adjudge and declare:
>
> 1. that the French Republic has violated its obligations under the 1986 Convention:

   - (i) by not acting upon its undertaking of 27 January 2005 to execute the letter rogatory addressed to it by the Republic of Djibouti dated 3 November 2004;
   - (ii) in the alternative, by not performing its obligation pursuant to Article 1 of the aforementioned Convention following its wrongful refusal given in the letter of 6 June 2005;
   - (iii) in the further alternative, by not performing its obligation pursuant to Article 1 of the aforementioned Convention following its wrongful refusal given in the letter of 31 May 2005;

2. that the French Republic shall immediately after the delivery of the Judgment by the Court:
   - (i) transmit the 'Borrel file' in its entirety to the Republic of Djibouti;
   - (ii) in the alternative, transmit the 'Borrel file' to the Republic of Djibouti within the terms and conditions determined by the Court;
3. that the French Republic has violated its obligation pursuant to the principles of customary and general international law not to attack the immunity, honour and dignity of the President of the Republic of Djibouti:
   - (i) by issuing a witness summons to the President of the Republic of Djibouti on 17 May 2005;
   - (ii) by repeating such attack or by attempting to repeat such attack on 14 February 2007;
   - (iii) by making both summonses public by immediately circulating the information to the French media;
   - (iv) by not responding appropriately to the two letters of protest from the Ambassador of the Republic of Djibouti in Paris dated 18 May 2005 and 14 February 2007 respectively;
4. that the French Republic has violated its obligation pursuant to the principles of customary and general international law to prevent attacks on the immunity, honour and dignity of the President of the Republic of Djibouti;
5. that the French Republic shall immediately after the delivery of the Judgment by the Court withdraw the witness summons dated 17 May 2005 and declare it null and void;
6. that the French Republic has violated its obligation pursuant to the principles of customary and general international law not to attack the person, freedom and honour of the *procureur général* of the Republic of Djibouti and the Head of National Security of Djibouti;
7. that the French Republic has violated its obligation pursuant to the principles of customary and general international law to prevent attacks on the person, freedom and honour of the

procureur général of the Republic of Djibouti and the Head of National Security of the Republic of Djibouti;

8. that the French Republic shall immediately after the delivery of the Judgment by the Court withdraw the summonses to attend as *témoins assistés* [legally represented witnesses] and the arrest warrants issued against the *procureur général* of the Republic of Djibouti and the Head of National Security of the Republic of Djibouti and declare them null and void;
9. that the French Republic by acting contrary to or by failing to act in accordance with Articles 1, 3, 4, 6 and 7 of the Treaty of Friendship and Co-operation of 1977 individually or collectively has violated the spirit and purpose of that Treaty, as well as the obligations deriving therefrom;
10. that the French Republic shall cease its wrongful conduct and abide strictly by the obligations incumbent on it in the future;
11. that the French Republic shall provide the Republic of Djibouti with specific assurances and guarantees of non-repetition of the wrongful acts complained of."

For France:

"the French Republic requests the Court:

1. *(a)* to declare that it lacks jurisdiction to rule on those claims presented by the Republic of Djibouti upon completion of its oral argument which go beyond the subject of the dispute as set out in its Application, or to declare them inadmissible;
   (b) in the alternative, to declare those claims to be unfounded;
2. to reject all the other claims made by the Republic of Djibouti."

On 4 June 2008, the Court rendered its Judgment (*I.C.J. Reports 2008*, p. 177), a summary of which is given below, followed by the text of the operative paragraph:

Chronology of the procedure and submissions of the Parties (paras. 1-18)

The Court recites the history of the proceedings and submissions of the Parties in the case.

The facts of the case (paras. 19-38)

The Court notes initially that the Parties concur that it is not for the Court to determine the facts and establish responsibilities in the *Borrel* case, and in particular, the circumstances in which Mr. Borrel met his death. It adds that they agree that the dispute before the Court does however originate in that case, as a result of the opening of a number of judicial proceedings, in France and in Djibouti, and the resort to bilateral treaty mechanisms for mutual assistance between the Parties. The Court describes at length the facts, some admitted and others disputed by the Parties, and the judicial proceedings brought in connection with the *Borrel* case.

Jurisdiction of the Court (paras. 39-95)

The Court recalls that Djibouti sought to found the Court's jurisdiction on Article 38, paragraph 5, of the Rules of Court. It notes that while France acknowledges that the Court's jurisdiction to settle the dispute is "beyond question" by virtue of that provision, it contests the scope of that jurisdiction *ratione materiae* and *ratione temporis* to deal with certain violations alleged by Djibouti.

Preliminary question regarding jurisdiction and admissibility (paras. 45-50)

The Court notes that in determining the scope of the consent expressed by one of the parties, it pronounces on its jurisdiction and not on the admissibility of the application. It then proceeds to examine the objections raised by France relating to the scope of its jurisdiction.

Jurisdiction ratione materiae (paras. 51-64)

After stating the positions of the Parties, the Court notes that its jurisdiction is based on the consent of States, under the conditions expressed therein, and that neither the Statute of the Court nor its Rules require that the consent of the parties which thus confers jurisdiction on the Court be expressed in any particular form. The Court recalls that it has also interpreted Article 36, paragraph 1, of the Statute as enabling consent to be deduced from certain acts, thus accepting the possibility of *forum prorogatum*. Thus for it to exercise jurisdiction on the basis of *forum prorogatum*, the Court is of the opinion that the element of consent must be either explicit or clearly deduced from the relevant conduct of a State.

The Court observes that this is the first time it falls to the Court to decide on the merits of a dispute brought before it by an application based on Article 38, paragraph 5, of the Rules of Court. It indicates that this provision, introduced by the Court into its Rules in 1978, allows a State which proposes to found the jurisdiction of the Court to entertain a case upon a consent thereto yet to be given or manifested by another State to file an application setting out its claims and inviting the latter to consent to the Court dealing with them, without prejudice to the rules governing the sound administration of justice. It notes that the State which is asked to consent to the Court's jurisdiction to settle a dispute is completely free to respond as it sees fit; if it consents to the Court's jurisdiction, it is for it to specify, if necessary, the aspects of the dispute which it agrees to submit to the judgment of the Court. It explains that the deferred and *ad hoc* nature of the Respondent's consent, as contemplated by Article 38, paragraph 5, of the Rules of Court, makes the procedure set out there a means of establishing *forum prorogatum*. The Court adds that its jurisdiction can be founded on *forum prorogatum* in a variety of ways, by no means all of which fall under Article 38, paragraph 5. It stipulates, however, that no applicant may come to the Court without being able to indicate, in its Application, the State against which the claim is brought and the subject of the dispute, as well as the precise nature of that claim and the facts and grounds on which it is based.

Extent of the mutual consent of the Parties (paras. 65-95)

The Court then turns to discerning the extent of the mutual consent of the Parties. To this end, it examines the terms of France's acceptance of the jurisdiction of the Court and the terms of Djibouti's Application to which that acceptance responds.

The Court notes that France has taken the view that it has only accepted the Court's jurisdiction over the stated subject-matter of the case which is to be found, and only to be found, in paragraph 2 of the Application, under the heading "Subject of the dispute".

That paragraph reads as follows:

> "The subject of the dispute concerns the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the *Case against X for the murder of Bernard Borrel*, in violation of the Convention on Mutual Assistance in Criminal Matters between the Government of the Republic of Djibouti and the Government of the French Republic, of 27 September 1986, and in breach of other international obligations borne by the French Republic to the Republic of Djibouti."

Basing itself upon its jurisprudence, the Court indicates that the subject of the dispute was not to be determined exclusively by reference to matters set out under the relevant section heading of the Application. The Court thus notes that the Application, taken as a whole, has a wider scope than that described in the aforementioned paragraph and that it includes the summonses sent to the Djiboutian President on 17 May 2005 and those sent to other Djiboutian officials on 3 and 4 November 2004.

The Court indicates that the Parties do not contest that the claims relating to the Djiboutian letter rogatory of 3 November 2004 and thus the question of compliance, in particular, with the 1986 Convention on Mutual Assistance in Criminal Matters are subject to its jurisdiction. It notes, however, that they disagree on the issue of whether the claims relating to the summonses sent by France to the Djiboutian President, the *procureur de la République* of Djibouti and the Djiboutian Head of National Security, as well as the arrest warrants issued against the latter two officials, fall within its jurisdiction.

The operative phrases in France's response to Djibouti's Application read as follows:

> "I have the honour to inform you that the French Republic consents to the Court's jurisdiction to entertain the Application pursuant to and solely on the basis of said Article 38 paragraph 5 [of the Rules of Court].
>
> The present consent to the Court's jurisdiction is valid only for the purposes of the case within the meaning of Article 38, paragraph 5, i.e. in respect of the dispute forming the subject of the Application and strictly within the limits of the claims formulated therein by the Republic of Djibouti."

After examining France's letter of acceptance, the Court declares that on the basis of a plain reading of the text of that letter, by its choice of words, the consent of the Respondent is not limited to the "subject of the dispute" as described in paragraph 2 of Djibouti's Application. It finds that when France, which had full knowledge of the claims formulated by Djibouti in its Application, sent its letter to the Court, it did not seek to exclude certain aspects of the dispute forming the subject of the Application from its jurisdiction. The Court consequently holds that, with regard to jurisdiction *ratione materiae*, the claims concerning both subject-matters referred to in Djibouti's Application, namely, France's refusal to comply with Djibouti's letter rogatory and the summonses to appear sent by the French judiciary, on the one hand to the President of Djibouti dated 17 May 2005, and on the other hand to two senior Djiboutian officials dated 3 and 4 November 2004 and 17 June 2005, are within the Court's jurisdiction.

The Court then turns to the question of its jurisdiction over the witness summons of 2007 served on the President of Djibouti and the arrest warrants of 2006 issued against the senior Djiboutian officials [actions which took place after the filing of the Application]. It recalls that, in its Memorial, Djibouti argued that it had reserved the right, in the Application, "to amend and supplement [it]" and that it noted that the claims based on violations of the international law on immunities which took place after 9 January 2006 were not "new or extraneous to the initial claims" and that they "all relate[d] to the claims set out in the Application and [were] based on the same legal grounds". The Court notes that France, for its part, has submitted that any possible jurisdiction of the Court to address such violations could not be exercised in respect of facts occurring after the filing of the Application.

With respect to the arrest warrants issued for senior Djiboutian officials, the Court indicates that it is clear from France's letter that its consent does not go beyond what is in that Application. It emphasizes that where jurisdiction is based on *forum prorogatum*, great care must be taken regarding the scope of the consent as it has been circumscribed by the respondent State. The Court recalls that France's consent is valid "only for the purposes of the case", that is, regarding "the dispute forming the subject of the Application and strictly within the limits of the claims formulated therein by the Republic of Djibouti"; that in Djibouti's Application there are no claims relating to arrest warrants; and that, although the arrest warrants could be perceived as a method of enforcing the summonses, they represent new legal acts in respect of which France cannot be considered as having implicitly accepted the Court's jurisdiction. Therefore the Court is of the opinion that the claims relating to the arrest warrants arise in respect of issues which are outside the scope of the Court's jurisdiction *ratione materiae*.

With respect to the summons addressed to the President of Djibouti on 14 February 2007, the Court indicates that it was in relation to the same case as the initial summons sent to the President of Djibouti on 17 May 2005, was issued by the same judge, and it was in relation to the same legal question, but that this time it followed the proper form under French law. The Court finds that, even though it had been corrected as to form, it was a repetition of the witness summons of 17 May 2005. It emphasizes that in the list of the legal grounds on which Djibouti bases its Application (see paragraph 3 of that document), it referred expressly to the attacks on the person of a Head of State. Noting that France has accepted the jurisdiction of the Court in relation to the "claims formulated" in Djibouti's Application, the Court reaches the conclusion that it has jurisdiction to examine both of the aforementioned summonses.

The alleged violation of the Treaty of Friendship and Co-operation between France and Djibouti of 27 June 1977 (paras. 96-114)

Djibouti argues that France violated a general obligation of co-operation provided for by the Treaty of Friendship and Co-operation (signed by the two States on 27 June 1977) by not co-operating in the context of the judicial investigation into the *Borrel* case, by attacking the dignity and honour of the Djiboutian Head of State and other Djiboutian authorities and by acting in disregard of the principles of equality, mutual respect and peace set out in Article 1 of the Treaty. France, for its part, contends that any interpretation of the Treaty resulting in the acknowledgment of the existence of a general obligation to co-operate which is legally binding on it in respect of the execution of the international letter rogatory is inconsistent not only with the wording of the Treaty, but also with its object, its purpose, its context, and the will of the parties.

The Court engages in a meticulous examination of the provisions of the Treaty. While it notes that the respective obligations of the Treaty are obligations of law, articulated as obligations of conduct, committing the parties to work towards the attainment of certain objectives, it finds that mutual assistance in criminal matters, the subject regulated by the 1986 Convention, is not a matter mentioned among the fields of co-operation enumerated in the Treaty of 1977.

If, moreover, the Court concludes that the Treaty of Friendship and Co-operation of 1977 does have a certain bearing on the interpretation and application of the Convention on Mutual Assistance in Criminal Matters (of 27 September 1986 between Djibouti and France), inasmuch as it must be interpreted and applied in such a way as to take into consideration the friendship and co-operation established by France and Djibouti as the basis for their mutual relations in the 1977 Treaty, it notes nevertheless that that is as far as the relationship between the two instruments can be explained in legal terms. The Court is thus of the opinion that, in the light of its jurisprudence and of the customary rule laid down in Article 31, paragraph 3, of the Vienna Convention on the Law of Treaties of 23 May 1969, an interpretation of the 1986 Convention duly taking into account the spirit of friendship and co-operation stipulated in the 1977 Treaty cannot possibly stand in the way of a party to that Convention relying on a clause contained in it which allows for non-performance of a conventional obligation under certain circumstances.

The alleged violation of the Convention on Mutual Assistance in Criminal Matters between France and Djibouti of 27 September 1986
(paras. 115-156)

Djibouti claims that France violated the aforementioned Convention by refusing to execute the letter rogatory issued on 3 November 2004 by the Djiboutian judicial authorities. The Court examines in turn the three arguments presented by Djibouti to support this claim.

The obligation to execute the international letter rogatory
(paras. 116-124)

According to Djibouti, the obligation to execute the international letter rogatory laid down in Article 1 of the 1986 Convention allegedly imposes on the two Parties an obligation of reciprocity in implementing the Convention. The Court notes in this respect that in the relations between Djibouti and France, Article 1 of the Convention of 1986 refers to mutuality in the performance of the obligations laid down therein. It considers in this regard that each request for legal assistance is to be assessed on its own terms by each Party. It notes, moreover, that the Convention nowhere provides that the granting of assistance by one State in respect of one matter imposes on the other State the obligation to do likewise when assistance is requested of it in turn. The Court accordingly considers that Djibouti cannot rely on the principle of reciprocity in seeking execution of the international letter rogatory it submitted to the French judicial authorities.

As for the obligation to execute international letters rogatory laid down in Article 3 of the 1986 Convention, the Court observes that it is to be realized in accordance with the procedural law of the requested State. It indicates that the ultimate treatment of a request for mutual assistance in criminal matters clearly depends on the decision by the competent national authorities, following the procedure established in the law of the requested State. While it must of course ensure that the procedure is put in motion, the State does not thereby guarantee the outcome, in the sense of the transmission of the file requested in the letter rogatory. The Court notes that Article 3 must be read in conjunction with Articles 1 and 2 of the Convention.

The alleged undertaking by France to execute the international letter rogatory requested by Djibouti (paras. 125-130)

The Court then comes to the assessment of a letter dated 27 January 2005 addressed to the Ambassador of Djibouti in Paris by the Principal Private Secretary to the French Minister of Justice written as follows:

> "I have asked for all steps to be taken to ensure that a copy of the record of the investigation into the death of Mr. Bernard Borrel is transmitted to the Minister of Justice and Penal and Muslim Affairs of the Republic of Djibouti before the end of February 2005 (such time being required because of the volume of material to be copied).
>
> I have also asked the *procureur* in Paris to ensure that there is no undue delay in dealing with this matter."

Djibouti argues that this amounted to an undertaking by the Principal Private Secretary (which was binding on the French Ministry of Justice and the French State as a whole) and that that undertaking gave rise to a legitimate expectation on its part that the file would be transmitted.

The Court notes that the terms of the letter of 27 January 2005, when given their ordinary meaning, entail no formal undertaking by the Principal Private Secretary to the Minister of Justice to transmit the Borrel file; the letter rather informed the Ambassador of Djibouti to France of the steps that had been undertaken to set in motion the legal process to make possible the transmission of the file. It adds that in any event the Principal Private Secretary could not have given a definitive commitment, because French law (Art. 694-2 of the French Code of Criminal Procedure) grants the authority to execute letters rogatory exclusively to investigating judges. Accordingly, the Court considers that, by virtue of its content and the factual and legal circumstances surrounding it, the letter of 27 January 2005 does not, by itself, entail a legal undertaking by France to execute the international letter rogatory transmitted to it by Djibouti on 3 November 2004.

France's refusal to execute the international letter rogatory (paras. 131-156)

Djibouti argues that France cannot rely on the provisions of Article 2 *(c)* of the Convention of 1986, by virtue of which a State may refuse mutual assistance, if it considers that execution of the request is likely to prejudice its essential interests. It further indicates that French law cannot be interpreted as giving the investigating judge sole authority to determine the essential interests of the State. Djibouti asserts that France, in the letter from its Ambassador in Djibouti to the Djiboutian Minister for Foreign Affairs of 6 June 2005, omitted to provide any reason for its "unilateral" refusal of mutual assistance, in violation of Article 17 of the Convention of 1986, which lays down that "[r]easons shall be given for any refusal of mutual assistance". According to Djibouti, the obligation to give reasons is in fact a condition of the validity of the refusal. It points out in this respect that the mere mention of Article 2 *(c)* is at best to be considered as a very general sort of "notification", which is in its opinion certainly not the same as providing "reasons".

France, for its part, points out that it is not for another State to determine how France should organize its own procedures. It notes that penal matters, more than others, affect the national sovereignty of States and their security, *ordre public* and other essential interests, as mentioned in Article 2 *(c)* of the Convention of 1986. It adds that not only did it inform Djibouti on 31 May 2005, in a letter from the Director of Criminal Affairs and Pardons at the Ministry of Justice to the Ambassador of Djibouti to France, of the investigating judge's refusal of the request for mutual assistance concerned, but that it also gave explicit reasons for its refusal by referring to Article 2 *(c)* of the Convention of 1986. France considers in that respect that the citation of that article suffices as the statement of reasons required by Article 17 of the Convention.

As Djibouti denies that its Ambassador in Paris ever received the letter dated 31 May 2005 and as France was unable to demonstrate that it had indeed been sent to the Djiboutian authorities, the Court concludes that it cannot take this document into consideration in its examination of the present case.

After recalling the circumstances in which the French judicial authorities took the decision to refuse to execute the international letter rogatory and how Djibouti was informed of that decision, the Court indicates that it is unable to accept the contention of Djibouti that, under French law, matters relating to security and *ordre public* could not fall for determination by the judiciary alone. It declares that it is aware that the Ministry of Justice had at a certain time been very active in dealing with such issues. However, the Court adds, where ultimate authority lay in respect of the response to a letter rogatory was settled by the *Chambre de l'instruction* of the Paris Court of Appeal in its judgment of 19 October 2006. The *Chambre de l'instruction* held that the application, in one way or another, of Article 2 of the 1986 Convention to a request made by a State is a matter solely for the investigating judge (who will have available information from relevant government departments). The Court of Appeal further determined that such a decision by an investigating judge is a decision in law, and not an advice to the executive. It is not for this Court to do other than accept the findings of the Paris Court of Appeal on this point.

As to whether the decision of the competent authority was made in good faith, and falls within the scope of Article 2 of the 1986 Convention, the Court recalls that Judge Clément's *soit-transmis* of 8 February 2005 states the grounds for her decision to refuse the request for mutual assistance. The judge explained in it that transmission of the file was considered to be "contrary to the essential interests of France", in that the file contained declassified "defence secret" documents, as well as information and witness statements in respect of another case in progress, the transmission of which to a foreign political authority would have amounted "to an abuse of French law", as they were "documents that are accessible only to the French judge". The Court indicates moreover that it was not evident from this *soit-transmis* why Judge Clément found that it was not possible to transmit part of the file, even with some documents removed or blackened out. It explains, however, that it was able to deduce from the written and oral pleadings of France that the intelligence service documents and information permeated the entire file. Consequently, the Court finds that those reasons that were given by Judge Clément do fall within the scope of Article 2 *(c)* of the 1986 Convention.

The Court is unable to accept, as France contends, that there has been no violation of Article 17 on the ground that Djibouti was allegedly informed that Article 2 *(c)* had been invoked. Equally, the Court is unable to accept the contention of France that the fact that the reasons have come within the knowledge of Djibouti during these proceedings means that there has been no violation of Article 17. A legal obligation to notify reasons for refusing to execute a letter rogatory is not fulfilled through the requesting State learning of the relevant documents only in the course of litigation, some long months later. As no reasons were given in the letter of 6 June 2005, the Court concludes that France failed to comply with its obligation under Article 17 of the 1986 Convention.

The Court observes in this respect that even if it had been persuaded of the transmission of the letter of 31 May 2005, the bare reference it was said to contain to Article 2 *(c)* would not have sufficed to meet the obligation of France under Article 17. It considers that some brief further explanation was called for and that this is not only a matter of courtesy. It also allows the requested State to substantiate its good faith in refusing the request.

The Court observes finally that there is a certain relationship between Articles 2 and 17 of the Convention in the sense that the reasons that may justify refusals of mutual assistance which are to be given under Article 17 include the grounds specified in Article 2. At the same time, Articles 2 and 17 provide for distinct obligations, and the terms of the Convention do not suggest that recourse to Article 2 is dependent upon compliance with Article 17. The Court thus finds that, in spite of the non-respect by France of Article 17, the latter was entitled to rely upon Article 2 *(c)* and that, consequently Article 1 of the Convention has not been breached.

The alleged violations of the obligation to prevent attacks on the person, freedom or dignity of an internationally protected person (paras. 157-200)

Djibouti considers that France, by sending witness summonses to the Head of State of Djibouti and to senior Djiboutian officials, has violated "the obligation deriving from established principles of customary and general international law to prevent attacks on the person, freedom or dignity of an internationally protected person".

The alleged attacks on the immunity from jurisdiction or the inviolability of the Djiboutian Head of State (paras. 161-180)

Djibouti calls into question two witness summonses in the *Borrel* case, issued by the French investigating judge, Judge Clément, to the President of the Republic of Djibouti on 17 May 2005 and 14 February 2007 respectively.

The witness summons addressed to the Djiboutian Head of State on 17 May 2005

The Court recalls that the investigating judge responsible for the *Borrel* case sent a witness summons to the President of Djibouti, on an official visit to France at the time, on 17 May 2005, simply by facsimile to the Djiboutian Embassy in France, inviting him to attend in person at the judge's office the following day. For Djibouti, this summons was not only inappropriate as to its form, but was, in the light of Articles 101 and 109 of the French Code of Criminal Procedure, an element of constraint. Djibouti has, moreover, inferred from the absence of an apology and from the fact that that summons was not declared void that the attack on the immunity, honour and dignity of the Head of State has continued.

France, for its part, submits that the summoning of a foreign Head of State as an ordinary witness in no sense constitutes an infringement of "the absolute nature of the immunity from jurisdiction and, even more so, from enforcement that is enjoyed by foreign Heads of State". In its view, the witness summons addressed to the Djiboutian Head of State was purely an invitation which imposed no obligation on him.

The Court indicates that it has already recalled in the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)* case "that in international law it is firmly established that . . . certain holders of high-ranking office in a State, such as the Head of State . . . enjoy immunities from jurisdiction in other States, both civil and criminal" (*Judgment, I.C.J. Reports 2002*, pp. 20-21, para. 51). In its opinion, a Head of State enjoys in particular "full immunity from criminal jurisdiction and inviolability" which protects him or her "against any act of authority of another State which would hinder him or her in the performance of his or her duties" (*ibid.*, p. 22, para. 54). Thus the determining factor in assessing whether or not there has been an attack on the immunity of the Head of State lies in the subjection of the latter to a constraining act of authority.

In the present case, the Court finds that the summons was not associated with the measures of constraint provided for by Article 109 of the French Code of Criminal Procedure; it was in fact merely an invitation to testify which the Head of State could freely accept or decline. Consequently, the Court holds that there was no attack by France on the immunities from criminal jurisdiction enjoyed by the Head of State.

However, the Court notes that the investigating judge, Judge Clément, addressed the summons to Djibouti's President notwithstanding the formal procedures laid down by Article 656 of the French Code of Criminal Procedure, which deals with the "written statement of the representative of a foreign Power". The Court considers that by inviting a Head of State to give evidence simply through sending him a facsimile and by setting him an extremely short deadline without consultation to appear at her office, the investigating judge failed to act in accordance with the courtesies due to a foreign Head of State.

Having taken note of all the formal defects surrounding the summons under French law, the Court considers that these do not in themselves constitute a violation by France of its international obligations regarding the immunity from criminal jurisdiction and the inviolability of foreign Heads of State. Nevertheless, the Court observes that an apology would have been due from France.

The Court recalls, moreover, that the rule of customary international law reflected in Article 29 of the Vienna Convention on Diplomatic Relations, whereby receiving States are under the obligation to protect the honour and dignity of diplomatic agents, necessarily applies to Heads of State. The Court observes, in this respect, that if it had been shown by Djibouti that confidential information relating to the witness summons addressed to its President had been passed from the offices of the French judiciary to the media, such an act could have constituted, in the context concerned, not only a violation of French law, but also a violation by France of its international obligations. However, the Court recognizes that it does not possess any probative evidence that would establish that the French judicial authorities are the source behind the dissemination of the confidential information in question.

The witness summons addressed to the Djiboutian Head of State on 14 February 2007

With respect to the second summons, the Court finds that it was issued following the procedure laid down by Article 656 of the French Code of Criminal Procedure, and therefore in accordance with French law. It notes that the consent of the Head of State is expressly sought in this request for testimony, which was transmitted through the intermediary of the authorities and in the form prescribed by law. The Court consequently considers that this measure cannot have infringed the immunities from jurisdiction enjoyed by the Djiboutian Head of State.

As for Djibouti's argument, that the disclosure to the media of confidential information regarding the second witness summons, in breach of the confidentiality of the investigation, must be regarded as an attack on the honour or the dignity of its Head of State, the Court indicates once again that it has not been provided with probative evidence which would establish that the French judicial authorities were the source behind the dissemination of the confidential information at issue here.

The alleged attacks on the immunities said to be enjoyed by the procureur de la République *and the Head of National Security of Djibouti* (paras. 181-200)

The Court examines the four summonses as *témoins assistés* addressed in 2004 and 2005 by French judges to senior Djiboutian officials, Mr. Djama Souleiman Ali and Mr. Hassan Said Khaireh, respectively *procureur de la République* and Head of National Security of Djibouti. According to Djibouti, these witness summonses violate international obligations on immunities, both conventional and deriving from general international law.

The Court recalls that in the event of summonses as *témoins assistés*, the situation envisaged by French law is one where suspicions exist regarding the person in question, without these being considered sufficient grounds to proceed with a *"mise en examen"*. The person concerned is thus obliged to appear before the judge, on pain of being compelled to do so by the law enforcement agencies (Art. 109 of the French Code of Criminal Procedure).

Djibouti initially contended that the *procureur de la République* and the Head of National Security benefited from personal immunities from criminal jurisdiction and inviolability, before rejecting this argument during the oral proceedings. It then argued in terms of "functional immunity, or *ratione materiae*". For Djibouti, it is a principle of international law that a person cannot be held as individually criminally liable for acts performed as an organ of State, and while there may be certain exceptions to that rule, there is no doubt as to its applicability in the present case. The Court observes that such a claim is, in essence, a claim of immunity for the Djiboutian State, from which the *procureur de la République* and the Head of National Security would be said to benefit.

France, in replying to this new formulation of Djibouti's argument, indicated that as functional immunities are not absolute, it is for the justice system of each country to assess, when criminal proceedings are instituted against an individual, whether, in view of the acts of public authority performed in the context of his duties, that individual should enjoy, as an agent of the State, the immunity from criminal jurisdiction that is granted to foreign States. According to France, the two senior officials concerned have never availed themselves before the French criminal courts of the immunities which Djibouti claims on their behalf.

The Court observes, initially, that it has not been "concretely verified" before it that the acts which were the subject of the summonses as *témoins assistés* issued by France were indeed acts within the scope of their duties as organs of State. It then points out that it is not apparent from the terms of the final submissions of Djibouti that the claim that Mr. Djama Souleiman Ali and Mr. Hassan Said Khaireh benefited from functional immunities as organs of State still constitutes the only, or the principal, argument being made by Djibouti.

The Court notes that there are no grounds in international law upon which it could be said that the officials concerned were entitled to personal immunities, not being diplomats within the meaning of the Vienna Convention on Diplomatic Relations of 1961, and the Convention on Special Missions of 1969 not being applicable.

The Court must also observe that at no stage have the French courts (before which the challenge to jurisdiction would normally be expected to be made), nor indeed this Court, been informed by the Government of Djibouti that the acts complained of by France were its own acts of the State of Djibouti and that the *procureur de la République* and the Head of National Security were its organs, agencies or instrumentalities in carrying them out.

The Court emphasizes that the State which seeks to claim immunity for one of its State organs is expected to notify the authorities of the other State concerned, thereby enabling the court of the forum State to ensure that it does not fail to respect any entitlement to immunity and might thereby engage the responsibility of that State. Further, the State notifying a foreign court that judicial process should not proceed, for reasons of immunity, against its State organs, is assuming responsibility for any internationally wrongful act in issue committed by such organs.

Given all these elements, the Court does not uphold the sixth and seventh final submissions of Djibouti.

Remedies (paras. 201-204)

Having found that the reasons invoked by France, in good faith, under Article 2 *(c)* fall within the provisions of the 1986 Convention, the Court will not order the Borrel file to be transmitted with certain pages removed, as Djibouti has requested in the alternative. Having itself no knowledge of the contents of the file, the Court considers that it would not have been in a position so to do.

With respect to remedies to the violation by France of its obligation to Djibouti under Article 17 of the 1986 Convention, the Court declares that it will not order the publication of the reasons underlying the decision, as specified in the *soit-transmis* of Judge Clément, underlying the refusal of the request for mutual assistance, these having in the meantime passed into the public domain. The Court determines that its finding that France has violated that obligation constitutes appropriate satisfaction.

Operative clause (para. 205)

"For these reasons,

THE COURT,

(1) As regards the jurisdiction of the Court,

(a) Unanimously,

Finds that it has jurisdiction to adjudicate upon the dispute concerning the execution of the letter rogatory addressed by the Republic of Djibouti to the French Republic on 3 November 2004;

(b) By fifteen votes to one,

Finds that it has jurisdiction to adjudicate upon the dispute concerning the summons as witness addressed to the President of the Republic of Djibouti on 17 May 2005, and the summonses as *"témoins assistés"* (legally assisted witnesses) addressed to two senior Djiboutian officials on 3 and 4 November 2004 and 17 June 2005;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judges* ad hoc Guillaume, Yusuf;

AGAINST: *Judge* Parra-Aranguren;

(c) By twelve votes to four,

Finds that it has jurisdiction to adjudicate upon the dispute concerning the summons as witness addressed to the President of the Republic of Djibouti on 14 February 2007;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Shi, Koroma, Buergenthal, Owada, Simma, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Yusuf;

AGAINST: *Judges* Ranjeva, Parra-Aranguren, Tomka; *Judge* ad hoc Guillaume;

(d) By thirteen votes to three,

Finds that it has no jurisdiction to adjudicate upon the dispute concerning the arrest warrants issued against two senior Djiboutian officials on 27 September 2006;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Simma, Tomka, Keith, Sepúlveda-Amor, Bennouna; *Judge* ad hoc Guillaume;

AGAINST: *Judges* Owada, Skotnikov; *Judge* ad hoc Yusuf;

(2) As regards the final submissions of the Republic of Djibouti on the merits,

(a) Unanimously,

Finds that the French Republic, by not giving the Republic of Djibouti the reasons for its refusal to execute the letter rogatory presented by the latter on 3 November 2004, failed to comply with its international obligation under Article 17 of the Convention on Mutual Assistance in Criminal Matters between the two Parties, signed in Djibouti on 27 September 1986, and that its finding of this violation constitutes appropriate satisfaction;

(b) By fifteen votes to one,

Rejects all other final submissions presented by the Republic of Djibouti.

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; *Judge* ad hoc Guillaume;

AGAINST: *Judge* ad hoc Yusuf."

*

Judges Ranjeva, Koroma, Parra-Aranguren appended separate opinions to the Judgment of the Court; Judge Owada appended a declaration; Judge Tomka appended a separate opinion; Judges Keith and Skotnikov appended declarations; Judge *ad hoc* Guillaume appended a declaration; Judge *ad hoc* Yusuf appended a separate opinion.

13. Maritime Dispute (Peru v. Chile)

On 16 January 2008 Peru filed an Application instituting proceedings against Chile before the Court concerning a dispute in relation to

> "the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean, beginning at a point on the coast called Concordia, . . . the terminal point of the land boundary established pursuant to the Treaty . . . of 3 June 1929"[1].

and also to the recognition in favour of Peru of a "maritime zone lying within 200 nautical miles of Peru's coast, and thus appertaining to Peru, but which Chile considers to be part of the high seas".

In its Application Peru claims that "the maritime zones between Chile and Peru have never been delimited by agreement or otherwise" and that, accordingly, "the delimitation is to be determined by the Court in accordance with customary international law". Peru states that, "since the 1980s, [it] has consistently endeavoured to negotiate the various issues in dispute, but . . . has constantly met a refusal from Chile to enter into negotiations". It asserts that a Note of 10 September 2004 from the Minister for Foreign Affairs of Chile to the Minister for Foreign Affairs of Peru made further attempts at negotiation impossible.

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[1] Treaty between Chile and Peru for the settlement of the dispute regarding Tacna and Arica, signed at Lima on 3 June 1929.

Peru consequently

> "requests the Court to determine the course of the boundary between the maritime zones of the two States in accordance with international law . . . and to adjudge and declare that Peru possesses exclusive sovereign rights in the maritime area situated within the limit of 200 nautical miles from its coast but outside Chile's exclusive economic zone or continental shelf".

As basis for the Court's jurisdiction, Peru invokes Article XXXI of the American Treaty on Pacific Settlement (the Pact of Bogotá) of 30 April 1948, to which both States are parties without reservation.

By an Order of 31 March 2008, the Court fixed 20 March 2009 and 9 March 2010 as the respective time-limits for the filing of a Memorial by Peru and a Counter-Memorial by Chile.

14. Aerial Herbicide Spraying (Ecuador v. *Colombia)*

On 31 March 2008, Ecuador filed an Application instituting proceedings against Colombia with respect to a dispute concerning the alleged "aerial spraying [by Colombia] of toxic herbicides at locations near, at and across its border with Ecuador".

Ecuador maintains that "the spraying has already caused serious damage to people, to crops, to animals, and to the natural environment on the Ecuadorian side of the frontier, and poses a grave risk of further damage over time". It further contends that it has made "repeated and sustained efforts to negotiate an end to the fumigations" but that "these negotiations have proved unsuccessful".

Ecuador accordingly requests the Court "to adjudge and declare that:

(a) Colombia has violated its obligations under international law by causing or allowing the deposit on the territory of Ecuador of toxic herbicides that have caused damage to human health, property and the environment;

(b) Colombia shall indemnify Ecuador for any loss or damage caused by its internationally unlawful acts, namely the use of herbicides, including by aerial dispersion, and in particular:

  (i) death or injury to the health of any person or persons arising from the use of such herbicides; and

  (ii) any loss of or damage to the property or livelihood or human rights of such persons; and

  (iii) environmental damage or the depletion of natural resources; and

(iv) the costs of monitoring to identify and assess future risks to public health, human rights and the environment resulting from Colombia's use of herbicides; and

(v) any other loss or damage; and

(c) Colombia shall:

(i) respect the sovereignty and territorial integrity of Ecuador; and

(ii) forthwith, take all steps necessary to prevent, on any part of its territory, the use of any toxic herbicides in such a way that they could be deposited onto the territory of Ecuador; and

(iii) prohibit the use, by means of aerial dispersion, of such herbicides in Ecuador, or on or near any part of its border with Ecuador."

As basis for the Court's jurisdiction, Ecuador invokes Article XXXI of the American Treaty on Pacific Settlement (the "Pact of Bogotá") of 30 April 1948, to which both States are parties. Ecuador also relies on Article 32 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

In its Application, Ecuador reaffirms its opposition "to the export and consumption of illegal narcotics" but stresses that the issues it presents to the Court "relate exclusively to the methods and locations of Colombia's operations to eradicate illicit coca and poppy plantations – and the harmful effects in Ecuador of such operations".

By an Order of 30 May 2008, the Court fixed 29 April 2009 and 29 March 2010 as the respective time-limits for the filing of a Memorial by Ecuador and a Counter-Memorial by Colombia.

15. Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*

On 5 June 2008, Mexico filed a Request for interpretation of the Judgment delivered on 31 March 2004 by the Court in the Case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*.

Mexico invokes Article 60 of the Statute of the Court, which provides: "In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party." A Request for interpretation opens a new case. Mexico notes that the Court has ruled in previous cases that its jurisdiction to provide an interpretation of one of its own judgments "[was] a special jurisdiction deriving directly from Article 60 of the Statute".

In its Request, Mexico recalls that in the *Avena* Judgment the Court *inter alia* found "that the United States had breached Article 36 of the Vienna Convention [on Consular Relations] in the cases of 51 of the Mexican nationals by failing to inform them . . . of their rights to consular access and assistance" and that the Court determined, in paragraph 153 (9) of the Judgment, the remedial obligations incumbent upon the United States. Mexico contends that "a fundamental dispute" has arisen "between the parties as to the scope and meaning" of paragraph 153 (9) and that the Court needs "to provide guidance to the parties". It therefore seeks the interpretation of said paragraph, which reads as follows:

> "153. For these reasons,
>
> THE COURT, . . .
>
> (9) By fourteen votes to one,
>
> *Finds* that the appropriate reparation in this case consists in the obligation of the United States of America to provide, by means of its own choosing, review and reconsideration of the convictions and sentences of the Mexican nationals referred to in subparagraphs (4), (5), (6) and (7) above, by taking account both of the violation of the rights set forth in Article 36 of the [Vienna] Convention [on Consular Relations] and of paragraphs 138 to 141 of this Judgment."

In its Request for interpretation, Mexico states that it "understands the operative language . . . of the *Avena* Judgment to establish an obligation of result incumbent upon the United States", while "it is clear that the United States understands the Judgment to constitute merely an obligation of means". Mexico argues that,

> "while the United States may use 'means of its own choosing' under paragraph 153 (9) [of the Court's Judgment], the obligation to provide review and reconsideration is not contingent on the success of any one means. As a result, the United States cannot rest on a single means chosen; it must provide the requisite review and reconsideration and prevent the execution of any Mexican national named in the Judgment unless and until that review and reconsideration is completed and it is determined that no prejudice resulted from the violation".

Mexico further asserts that "requests by the Mexican nationals for the review and reconsideration mandated in their cases by the *Avena* Judgment have repeatedly been denied". It also states that

> "[o]n 25 March 2008, the Supreme Court of the United States determined in the case of José Ernesto Medellín Rojas . . . that the Judgment itself did not directly require U.S. courts to provide review and reconsideration under domestic law"

and that,

> "while expressly recognizing the United States's obligation to comply with the Judgment under international law, [it] further held that the means chosen by the President of the United States to comply were unavailable under the U.S. Constitution and indicated alternate means involving legislation by the U.S. Congress or voluntary compliance by the State of Texas".

Mexico adds that

> "it understands the United States's obligation under paragraph 153 (9) to extend to taking the steps set forth by the Supreme Court, including legislative action at the federal or state levels or compliance by state courts or the state legislatures".

In its Request for interpretation, Mexico goes on to explain that, since the decision of the Supreme Court was issued, "Texas . . . has scheduled Mr. Medellín for execution on 5 August 2008". It insists that "[t]he actions of Texas, a political subdivision of the United States, engage the international responsibility of the United States" and that "the United States cannot invoke its municipal law as justification for failure to perform its international legal obligation under the *Avena* Judgment". It also observes that "at least four more Mexican nationals are also in imminent danger of having execution dates set by the State of Texas".

Accordingly, Mexico asks the Court to adjudge and declare

> "that the obligation incumbent upon the United States under paragraph 153 (9) of the *Avena* Judgment constitutes an obligation of result as it is clearly stated in the Judgment by the indication that the United States must provide 'review and reconsideration of the convictions and sentences' but leaving it the 'means of its own choosing';
>
> and that, pursuant to the foregoing obligation of result,
>
> (1) the United States must take any and all steps necessary to provide the reparation of review and reconsideration mandated by the *Avena* Judgment; and
> (2) the United States must take any and all steps necessary to ensure that no Mexican national entitled to review and reconsideration under the *Avena* Judgment is executed unless and until that review and reconsideration is completed and it is determined that no prejudice resulted from the violation."

Mexico's Request for interpretation was accompanied by a request for the indication of provisional measures on the ground that such measures "are clearly justified in order both to protect Mexico's paramount interest in the life of its nationals and to ensure the Court's ability to order the relief Mexico seeks".

Mexico requested the Court to indicate the following measures:

"*(a)* that the Government of the United States take all measures necessary to ensure that José Ernesto Medellín, César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García, and Roberto Moreno Ramos are not executed pending the conclusion of the proceedings instituted this day;

(b) that the Government of the United States inform the Court of all measures taken in implementation of subparagraph *(a)*; and

(c) that the Government of the United States ensure that no action is taken that might prejudice the rights of Mexico or its nationals with respect to any interpretation this Court may render with respect to paragraph 153 (9) of its *Avena* Judgment."

Public hearings were held on 19 and 20 June 2008 in order to hear the Parties' oral arguments on the request for the indication of provisional measures.

On 16 July 2008, the Court rendered an Order on the request for provisional measures made by Mexico (*I.C.J. Reports 2008*, p. 311), a summary of which is given below, followed by the text of the operative paragraph.

The Court recites the history of the proceedings and submissions of the Parties and then summarizes the arguments put forward by the Parties during the public hearings.

It indicates that Mexico restated the position set out in its Application and in its request for the indication of provisional measures, affirming that the requirements for the indication by the Court of such measures had been met, while the United States claimed that there existed no dispute between itself and Mexico as to "the meaning or scope of the Court's decision in *Avena*" because the United States "entirely agree[d]" with Mexico's position that the *Avena* Judgment imposed an international legal obligation of "result" and not merely of "means". In the United States' view, the Court was being "requested by Mexico to engage in what [was] in substance the enforcement of its earlier judgments and the supervision of compliance with them" and, given the fact that the United States had withdrawn from the Optional Protocol to the Vienna Convention on Consular Relations on 7 March 2005, a proceeding on interpretation was "potentially the only jurisdictional basis" for Mexico to seise the Court in matters involving the violation of that convention.

The Court notes that at the end of the hearings, Mexico made the following request:

"*(a)* that the United States, acting through all its competent organs and all its constituent subdivisions, including all branches of government and any official, state or federal, exercising

> government authority, take all measures necessary to ensure that José Ernesto Medellín, César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García, and Roberto Moreno Ramos are not executed pending the conclusion of the proceedings instituted by Mexico on 5 June 2008, unless and until the five Mexican nationals have received review and reconsideration consistent with paragraphs 138 through 141 of this Court's *Avena* Judgment; and
>
> *(b)* that the Government of the United States inform the Court of all measures taken in implementation of subparagraph *(a)*."

The United States, for its part, requested that the Court reject the request of Mexico for the indication of provisional measures of protection and not indicate any such measures, and that the Court dismiss Mexico's Application for interpretation on grounds of manifest lack of jurisdiction.

The Court begins its reasoning by observing that its jurisdiction on the basis of Article 60 of the Statute is not preconditioned by the existence of any other basis of jurisdiction as between the parties to the original case. It follows that, even if the basis of jurisdiction in the original case lapses, the Court, nevertheless, by virtue of Article 60 of the Statute, may entertain a request for interpretation.

The Court goes on to say that in the case of a request for the indication of provisional measures made in the context of a request for interpretation under Article 60 of the Statute, it has to consider whether the conditions laid down by that Article for the Court to entertain a request for interpretation appear to be satisfied.

The Court states that according to Mexico, paragraph 153 (9) of the *Avena* Judgment "establishes an obligation of result that obliges the United States, including all its component organs at all levels, to provide the requisite review and reconsideration irrespective of any domestic impediment", and that the

> "obligation imposed by the *Avena* Judgment requires the United States to prevent the execution of any Mexican national named in the Judgment unless and until that review and reconsideration has been completed and it has been determined whether any prejudice resulted from the Vienna Convention violations found by this Court".

It adds that, in Mexico's view, the fact that

> "[n]either the Texas executive, nor the Texas legislature, nor the federal executive, nor the federal legislature [of the United States] has taken any legal steps at this point that would stop th[e] execution [of Mr. Medellín] from going forward . . . reflects a dispute over the meaning and scope of [the] *Avena*"

Judgment. According to Mexico, "the United States understands the Judgment to constitute merely an obligation of means, not an obligation of result".

The Court recalls that the United States has argued that Mexico's understanding of paragraph 153 (9) of the *Avena* Judgment as an "obligation of result . . . is *precisely* the interpretation that the United States holds concerning the paragraph in question" (emphasis in the original) and that, while admitting that, because of the structure of its Government and its domestic law, the United States faces substantial obstacles in implementing its obligation under the *Avena* Judgment, the United States confirmed that "it has clearly accepted that the obligation to provide review and reconsideration is an obligation of result and it has sought to achieve that result". The Court indicates that, in the United States' view, in the absence of a dispute with respect to the meaning and scope of paragraph 153 (9) of the *Avena* Judgment, Mexico's claim does not fall within the provisions of Article 60 and that the Court lacks "jurisdiction *ratione materiae*" to entertain Mexico's Application and accordingly lacks "the prima facie jurisdiction required for the indication of provisional measures".

Examining the French and English versions of Article 60 of the Statute, the Court observes that they are not in total harmony: the French text uses the term "contestation", which has a wider meaning than the term used in the English text ("dispute"), although in their ordinary meaning, both terms in a general sense denote opposing views. The Court notes that Article 60 of its Statute is identical to that of its predecessor, the Permanent Court of International Justice, and goes on to explain that the drafters of the Statute of the Permanent Court chose to use the term "contestation" (rather than "différend") in Article 60. It observes that the term "contestation" is wider in scope, does not require the same degree of opposition and that its underlying concept is more flexible in its application to a particular situation. The Court then looks at the way the Permanent Court and itself addressed the question of the meaning of the term "dispute" ("contestation") in their jurisprudence. It indicates that "the manifestation of the existence of the dispute in a specific manner, as for instance by diplomatic negotiations, is not required" for the purposes of Article 60, nor is it required that "the dispute should have manifested itself in a formal way". It adds that recourse could be had to the Permanent Court as soon as the interested States had in fact shown themselves as holding opposing views in regard to the meaning or scope of a judgment of the Court, and that this reading was confirmed by the ICJ in a 1985 Judgment in the case concerning *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the* Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*.

The Court then explains that it needs to determine whether there appears to be a dispute between the Parties as to the meaning or scope of the *Avena* Judgment. Recalling the arguments of the Parties, it finds that, while it seems both Parties regard paragraph 153 (9) of the *Avena* Judgment as an international obligation of result, the Parties nonetheless apparently hold different views as to the meaning and scope of that obligation of result, namely, whether that understanding is shared by all United States federal and state authorities and whether that obligation falls upon those authorities.

It points out that, in the light of the positions taken by the Parties, there appears to be a difference of opinion between them as to the meaning and scope of the Court's finding in paragraph 153 (9) of the operative part of the Judgment and thus recourse could be had to the Court under Article 60 of the Statute. The Court finds that it may, under Article 60 of the Statute, deal with the Request for interpretation, that the submission of the United States, that the Application of Mexico be dismissed *in limine* "on grounds of manifest lack of jurisdiction", cannot be upheld, and that it may address the request for the indication of provisional measures.

Turning to Mexico's request for the indication of provisional measures, the Court states that, when considering such a request, it "must be concerned to preserve . . . the rights which may subsequently be adjudged by the Court to belong either to the Applicant or to the Respondent". The Court adds that a link must be established between the alleged rights the protection of which is the subject of the provisional measures being sought, and the subject of the principal request submitted to the Court.

After recalling the arguments of the Parties thereon, the Court notes that Mexico seeks clarification of the meaning and scope of paragraph 153 (9) of the operative part of the 2004 Judgment in the *Avena* case, whereby the Court found that the United States is under an obligation to provide, by means of its own choosing, review and reconsideration of the convictions and sentences of the Mexican nationals, taking into account both the violation of the rights set forth in Article 36 of the Vienna Convention and paragraphs 138 to 141 of the Judgment. The Court observes that it is the interpretation of the meaning and scope of that obligation, and hence of the rights which Mexico and its nationals have on the basis of paragraph 153 (9) that constitutes the subject of the proceedings before the Court on the Request for interpretation, and that Mexico filed a request for the indication of provisional measures in order to protect these rights pending the Court's final decision. The Court thus finds that the rights which Mexico seeks to protect by its request have a sufficient connection with the Request for interpretation.

The Court goes on to say that its power to indicate provisional measures under Article 41 of its Statute "presupposes that irreparable prejudice shall not be caused to rights which are the subject of a dispute in judicial proceedings" and that it will be exercised only if there is urgency in the sense that action prejudicial to the rights of either party is likely to be taken before the Court has given its final decision.

The Court notes that Mexico claims that there indisputably is urgency, while the United States argues that, as there are no rights in dispute, "*none* of the requirements for provisional measures are met" (emphasis in the original).

The Court points out that the execution of a national, the meaning and scope of whose rights are in question, before the Court delivers its judgment on the Request for interpretation "would render it impossible for the Court to order the relief that [his national State] seeks and thus cause irreparable harm to the rights it claims". It finds that it is apparent from the information before it that Mr. José Ernesto Medellín Rojas, a Mexican national, will face execution on 5 August 2008 and four other Mexican nationals, Messrs. César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García, and Roberto Moreno Ramos, are at risk of execution in the coming months; that their execution would cause irreparable prejudice to any rights, the interpretation of the meaning and scope of which is in question, and that it could be that the said Mexican nationals will be executed before the Court has delivered its judgment on the Request for interpretation and therefore there undoubtedly is urgency. The Court accordingly concludes that the circumstances require that it indicate provisional measures to preserve the rights of Mexico, as Article 41 of its Statute provides.

The Court indicates that it is fully aware that the federal Government of the United States has been taking many diverse and insistent measures in order to fulfil the international obligations of the United States under the *Avena* Judgment. It notes that the United States has recognized that, were any of the Mexican nationals named in the request for the indication of provisional measures to be executed without the necessary review and reconsideration required under the *Avena* Judgment, that fact would constitute a violation of United States obligations under international law. It recalls, in particular, that the Agent of the United States declared before the Court that "[t]o carry out Mr. Medellín's sentence without affording him the necessary review and reconsideration obviously would be inconsistent with the *Avena* Judgment".

The Court further notes that the United States has recognized that "it is responsible under international law for the actions of its political subdivisions", including "federal, state, and local officials", and that its own international responsibility would be engaged if, as a result of acts or omissions by any of those political subdivisions, the United States was unable to respect its international obligations under the *Avena* Judgment. It observes that, in particular, the Agent of the United States acknowledged before the Court that "the United States would be responsible, clearly, under the principle of State responsibility for the internationally wrongful actions of [state] officials".

The Court finally underscores that it regards it as in the interest of both Parties that any difference of opinion as to the interpretation of the meaning and scope of their rights and obligations under paragraph 153 (9) of the *Avena* Judgment be resolved as early as possible, and that it is therefore appropriate that it ensure that a judgment on the Request for interpretation be reached with all possible expedition.

The Court concludes by pointing out that the decision given on the request for the indication of provisional measures in no way prejudges any question that it may have to deal with relating to the Request for interpretation.

Operative paragraph (para. 80)

"For these reasons,

THE COURT,

I. By seven votes to five,

Finds that the submission by the United States of America seeking the dismissal of the Application filed by the United Mexican States can not be upheld;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Abraham, Sepúlveda-Amor, Bennouna;

AGAINST: *Judges* Buergenthal, Owada, Tomka, Keith, Skotnikov;

II. *Indicates* the following provisional measures:

(a) By seven votes to five,

The United States of America shall take all measures necessary to ensure that Messrs. José Ernesto Medellín Rojas, César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García, and Roberto Moreno Ramos are not executed pending judgment on the Request for interpretation submitted by the United Mexican States, unless and until these five Mexican nationals receive review and reconsideration consistent with paragraphs 138 to 141 of the Court's Judgment delivered on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Abraham, Sepúlveda-Amor, Bennouna;

AGAINST: *Judges* Buergenthal, Owada, Tomka, Keith, Skotnikov;

(b) By eleven votes to one,

The Government of the United States of America shall inform the Court of the measures taken in implementation of this Order;

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Owada, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov;

AGAINST: *Judge* Buergenthal;

III. By eleven votes to one,

Decides that, until the Court has rendered its judgment on the Request for interpretation, it shall remain seised of the matters which form the subject of this Order.

IN FAVOUR: *President* Higgins; *Vice-President* Al-Khasawneh; *Judges* Ranjeva, Koroma, Owada, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov;

AGAINST: *Judge* Buergenthal."

After ascertaining the views of the Parties, the Court, pursuant to Article 98, paragraph 3, of the Rules of Court, fixed 29 August 2008 as the time-limit for the filing by the United States of written observations on Mexico's Request for interpretation. It reserved the right, after the written observations of the United States have been filed, to afford the Parties the opportunity of furnishing further written explanations, as provided for in paragraph 4 of the aforementioned Article 98.

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. Organization of the Court

(a) *The Presidency*
(Rules, Arts. 12 and 31)

On several occasions, the President of the Court convened meetings with the Agents of the Parties in cases pending before the Court in order to ascertain the views of those Parties with regard to questions of procedure.

The Vice-President presided over the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, the President having recused herself from the case (see (b) below).

(b) *Non-participation of a judge in a case*
(Statute, Arts. 17, para. 2, 23, para. 3, and 24, para. 1; Rules, Art. 20, para. 2)

The President of the Court considered that she should not take part in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, having previously acted as counsel in the case.

Two Members of the Court informed the President that they considered that they should not take part in the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*. For serious reasons duly explained to the Court, another Member of the Court was unable to take part in the hearings on the request for the indication of provisional measures submitted by the Applicant in the case. Consequently, he did not take part in the drafting of the Court's decision on that request.

(c) *Judges* ad hoc

(Statute, Arts. 20 and 31, paras. 3 and 6; Rules, Arts. 4, 8 and 35)

The judges *ad hoc* chosen in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* made the solemn declaration required by the Statute and the Rules of the Court at the opening of the hearings on the merits in that case.

The judges *ad hoc* chosen in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)* made the solemn declaration required by the Statute and the Rules of the Court at the opening of the hearings on the merits in that case.

The judges *ad hoc* chosen in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)* made the solemn declaration required by the Statute and the Rules of the Court at the opening of the hearings on the preliminary objections raised by the Respondent in that case.

In the case concerning *Maritime Dispute (Peru* v. *Chile)*, both Parties exercised their right to choose a judge *ad hoc.*

(d) *Chamber of Summary Procedure*

(Statute, Art. 29)

During the period under review, the Court composed the Chamber of Summary Procedure, consisting of five judges and two substitute judges (see above, Chap. I, p. 29).

(e) *Election of a Deputy-Registrar*

(Rules, Arts. 22, 23 and 24, para. 2)

On 9 October 2007, the Court elected a new Deputy-Registrar for a term of seven years (see Chap. V, p. 202).

2. *Jurisdiction of the Court*

(a) *Basis of jurisdiction relied on in Applications*

(Statute, Art. 36, para. 1; Rules, Art. 38, paras. 1 and 2)

In the following cases brought during the period under review, the Applications seek to base the jurisdiction of the Court on the provisions of Article XXXI of the Pact of Bogotá: *Maritime Dispute (Peru* v. *Chile)* and *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*. In the latter case, the Application instituting proceedings also relies on Article 32 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(b) *Consent of a party to the jurisdiction of the Court*

(Statute, Arts. 36 and 38; Rules, Art. 38, paras. 1 and 5)

In its Judgment of 4 June 2008 in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, the Court recalled that Djibouti had sought to found the Court's jurisdiction on Article 38, paragraph 5, of the Rules of Court, noting that while France acknowledged that the Court's jurisdiction to settle the dispute was "beyond question" by virtue of that provision, it contested the scope of that jurisdiction *ratione materiae* and *ratione temporis* to deal with certain violations alleged by Djibouti. The Court noted that its jurisdiction was based on the consent of States, under the conditions expressed therein, and that neither the Statute of the Court nor its Rules required that the consent of the parties which thus conferred jurisdiction on the Court be expressed in any particular form. The Court recalled that it had also interpreted Article 36, paragraph 1, of the Statute as enabling consent to be deduced from certain acts, thus accepting the possibility of *forum prorogatum*. Thus for it to exercise jurisdiction on the basis of *forum prorogatum*, the Court was of the opinion that the element of consent must be either explicit or clearly to be deduced from the relevant conduct of a State.

The Court observed that this was the first time it had fallen to the Court to decide on the merits of a dispute brought before it by an application based on Article 38, paragraph 5, of the Rules of Court. This provision allowed a State which proposed to found the jurisdiction of the Court to entertain a case upon a consent thereto yet to be given or manifested by another State to file an application setting out its claims and inviting the latter to consent to the Court dealing with them. It noted that the State which was asked to consent to the Court's jurisdiction to settle a dispute was completely free to respond as it saw fit; if it consented to the Court's jurisdiction, it was for it to specify the aspects of the dispute which it agreed to submit to the judgment of the Court. The Court explained that the deferred and *ad hoc* nature of the Respondent's consent, as contemplated by Article 38, paragraph 5, of the Rules of Court, made the procedure set out there one of a variety of ways of establishing *forum prorogatum*, by no means all of which fell under that provision. It stipulated, however, that no applicant could come to the Court without being able to indicate, in its Application, the State against which the claim was brought and the subject of the dispute, as well as the precise nature of that claim and the facts and grounds on which it was based.

The Court then turned to discerning the extent of the mutual consent of the Parties by examining the terms of France's acceptance of the jurisdiction of the Court and the terms of Djibouti's Application to which that acceptance responded. The Court noted that France took the view that it had only accepted the Court's jurisdiction over the stated subject-matter of the case which was to be found in paragraph 2 of the Application, under the heading "Subject of the dispute":

> "The subject of the dispute concerns the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the *Case against X for the murder of Bernard Borrel*, in violation of the Convention on Mutual Assistance in Criminal Matters between the Government of the Republic of Djibouti and the Government of the French Republic, of 27 September 1986, and in breach of other international obligations borne by the French Republic to the Republic of Djibouti."

Basing itself upon its jurisprudence, the Court indicated that the subject of the dispute was not to be determined exclusively by reference to matters set out under the relevant section heading of the Application. The Court thus noted that the Application, taken as a whole, had a wider scope than that described in the aforementioned paragraph and that it included the summonses sent to the Djiboutian President on 17 May 2005 and those sent to other Djiboutian officials on 3 and 4 November 2004.

The Court indicated that the Parties did not contest that the claims relating to the Djiboutian letter rogatory of 3 November 2004 and thus the question of compliance, in particular, with the 1986 Convention on Mutual Assistance in Criminal Matters were subject to its jurisdiction. It noted, however, that they disagreed on the issue of whether the claims relating to the summonses sent by France to the Djiboutian President, the *procureur de la République* of Djibouti and the Djiboutian Head of National Security, as well as the arrest warrants issued against the latter two officials, fell within its jurisdiction. The operative phrases in France's response to Djibouti's Application read as follows:

> "I have the honour to inform you that the French Republic consents to the Court's jurisdiction to entertain the Application pursuant to and solely on the basis of said Article 38, paragraph 5 [of the Rules of Court].
>
> The present consent to the Court's jurisdiction is valid only for the purposes of the case within the meaning of Article 38, paragraph 5, i.e. in respect of the dispute forming the subject of the Application and strictly within the limits of the claims formulated therein by the Republic of Djibouti."

After examining France's letter of acceptance, the Court declared that on the basis of a plain reading of the text of that letter, by its choice of words, the consent of the Respondent was not limited to the "subject of the dispute" as described in paragraph 2 of Djibouti's Application. It found that France, which had full knowledge of the claims formulated by Djibouti in its Application, thus did not seek to exclude certain aspects of the dispute forming the subject of the Application from its jurisdiction. The Court consequently held that, with regard to jurisdiction *ratione* *materiae*, the claims concerning both subject-matters referred to in Djibouti's Application, namely, France's refusal to comply with Djibouti's letter rogatory and the summonses to appear sent by the French judiciary, on the one hand to the President of Djibouti dated 17 May 2005, and on the other hand to two senior Djiboutian officials dated 3 and 4 November 2004 and 17 June 2005, were within the Court's jurisdiction.

The Court then turned to the question of its jurisdiction over the witness summons of 2007 served on the President of Djibouti and the arrest warrants of 2006 issued against the senior Djiboutian officials, actions which took place after the filing of the Application. It recalled that Djibouti had argued that it had reserved the right, in the Application, "to amend and supplement [it]" and that it had noted that the claims based on violations of the international law on immunities which took place after 9 January 2006 "all relate[d] to the claims set out in the Application and [were] based on the same legal grounds". The Court noted that France, for its part, had submitted that any possible jurisdiction of the Court to address such violations could not be exercised in respect of facts occurring after the filing of the Application.

With respect to the arrest warrants issued for senior Djiboutian officials, the Court indicated that it was clear from France's letter that its consent did not go beyond what was in that Application. It emphasized that where jurisdiction was based on *forum prorogatum*, great care must be taken regarding the scope of the consent as it had been circumscribed by the respondent State. The Court recalled that France's consent was valid "only for the purposes of the case ... i.e. in respect of the dispute forming the subject of the Application and strictly within the limits of the claims formulated therein by the Republic of Djibouti"; that in Djibouti's Application there were no claims relating to arrest warrants; and that, although the arrest warrants could be perceived as a method of enforcing the summonses, they represented new legal acts in respect of which France could not be considered as having implicitly accepted the Court's jurisdiction. Therefore the Court was of the opinion that the claims relating to the arrest warrants arose in respect of issues which were outside the scope of the Court's jurisdiction *ratione materiae*.

With respect to the summons addressed to the President of Djibouti on 14 February 2007, the Court indicated that it was in relation to the same case as the initial summons sent to the President of Djibouti on 17 May 2005, that it had been issued by the same judge and in relation to the same legal question, but that this time it had followed the proper form under French law. The Court found that, even though it had been corrected as to form, it was a repetition of the witness summons of 17 May 2005. It emphasized that in the list of the legal grounds on which Djibouti based its Application, it had referred expressly to the attacks on the person of a Head of State. Noting that France had accepted the jurisdiction of the Court in relation to the "claims formulated" in Djibouti's Application, the Court reached the conclusion that it had jurisdiction to examine both of the aforementioned summonses.

(c) *Request for interpretation*

(Statute, Art. 60; Rules, Art. 98, paras. 1 and 2)

In the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico v. United States of America) *(Mexico* v. *United States of America)*, the Applicant relied in its Application, in order to found the jurisdiction of the Court, on Article 60 of the Statute, which provides that "In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party." In its Order indicating provisional measures in the case, the Court first observed that its jurisdiction on the basis of Article 60 was not preconditioned by the existence of any other basis of jurisdiction as between the parties to the original case. After addressing the meaning of the term "dispute" as employed in Article 60, the Court noted that "there appear[ed] to be a difference of opinion" between the Parties as to the meaning and scope of the Court's finding in paragraph 153 (9) of the *Avena* Judgment, and concluded that the conditions for dealing with a request for interpretation appeared to be fulfilled.

(d) *Preliminary objections*

(Statute, Art. 36, paras. 1, 2, 3, 5 and 6; Rules, Art. 79, paras. 6, 7, 8 and 9)

In its Judgment of 13 December 2007 on the preliminary objections in the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, the Court noted that Nicaragua had based the Court's jurisdiction on the provisions of Article XXXI of the Pact of Bogotá as well as on the declarations made by the Parties pursuant to Article 36 of the Statute of the Permanent Court of International Justice, and that Colombia had raised two preliminary objections to the jurisdiction of the Court.

The Court began by examining the first of those objections, namely that the matters raised by Nicaragua had been settled by the 1928 Treaty and 1930 Protocol and that, pursuant to Articles VI and XXXIV of the Pact, the Court was therefore without jurisdiction to hear the controversy submitted to it and should declare the controversy ended. Article VI of the Pact provides that recourse to the Court is not possible for "matters already settled by arrangement between the Parties, or by arbitral award or by decision of an international court, or which are governed by agreements or treaties in force on the date of conclusion" of the Pact in 1948. Article XXXIV provides that "if the Court . . . declares itself to be without jurisdiction to hear the controversy, such controversy shall be declared ended". For its part, Nicaragua contended that the 1928 Treaty and its 1930 Protocol did not settle the matters in issue within the meaning of Article VI of the Pact because the Treaty was invalid. The Court found that Nicaragua had, in significant ways, acted as if the 1928 Treaty was valid and in force on the date of the conclusion of the

Pact of Bogotá. After examining whether the Treaty and its Protocol had settled the matters in dispute between the Parties, the Court upheld the objection to jurisdiction in so far as it concerned the issue of sovereignty over the islands of San Andrés, Providencia and Santa Catalina, since that matter had been settled by the 1928 Treaty within the meaning of Article VI of the Pact of Bogotá. However, the Court rejected the objection to jurisdiction as regards the scope and composition of the rest of the San Andrés Archipelago, since that matter had not been settled by the 1928 Treaty, and concerning Roncador, Quitasueño and Serrana, since the terms of the 1928 Treaty made it clear that the Treaty did not apply to those three maritime features. Lastly, the Court rejected the objection to jurisdiction as regards the issue of the maritime delimitation, since the 1928 Treaty and the 1930 Protocol did not effect a general delimitation of the maritime boundary between Colombia and Nicaragua, and the dispute had therefore not been settled within the meaning of Article VI of the Pact of Bogotá.

The Court then examined the second preliminary objection, namely that the Court did not have jurisdiction on the basis of the optional clause declarations made by the Parties. Colombia argued that Nicaragua's Application should be rejected on the grounds that Colombia had withdrawn its declaration by the date of the filing of the Application and that, even if its declaration were found to be in force at that time, the alleged dispute would fall outside the scope of the declaration as a result of a reservation which excluded disputes arising out of facts prior to 6 January 1932. Nicaragua denied Colombia's arguments in this respect. The Court initially noted that the question of whether the optional clause declarations could provide a distinct and sufficient basis of jurisdiction in the present case only arose in respect of that part of the dispute relating to sovereignty over the three islands named in the 1928 Treaty: San Andrés, Providencia and Santa Catalina. This was because the Court had concluded earlier that it had jurisdiction under the Pact of Bogotá to deal with all the other aspects of the dispute. Consequently, no purpose was served by examining whether, in relation to those aspects, the declarations could also provide a basis of jurisdiction. The Court observed that Article 36, paragraph 2, of the Statute expressly required that in order for it to have jurisdiction on the basis of optional clause declarations, there must exist a "legal dispute" between the Parties. Given the Court's finding that there was no extant legal dispute between the Parties on the question of the sovereignty over the three islands, the Court could not have jurisdiction over that question either under the Pact of Bogotá or on the basis of the optional clause declarations. It upheld the second preliminary objection raised by Colombia relating to jurisdiction under the optional clause declarations in so far as it concerned the Court's jurisdiction with regard to the three islands. In conclusion, the Court found that it had jurisdiction under the Pact of Bogotá to adjudicate upon the dispute concerning sovereignty over the maritime features claimed by the Parties other than San Andrés, Providencia and Santa

Catalina, and upon the dispute concerning the maritime delimitation between the Parties.

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, the Court held hearings on the preliminary objections raised by the Respondent in that case.

3. *Contentious procedure*

(a) *Institution of proceedings*

(Statute, Arts. 34, para. 3, and 40; Rules, Arts. 38, paras. 1-4, 40, 42 and 43, para. 1)

(i) *New proceedings*

Proceedings were instituted by means of an Application in the following two cases: *Maritime Dispute (Peru* v. *Chile)* and *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*. The Registrar proceeded with the requisite communications, in accordance with the Statute and the Rules of Court.

(ii) *Request for interpretation*

(Statute, Art. 60; Rules, Art. 98, paras. 1-3, and 100)

A Request for interpretation of the Judgment rendered by the Court on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)* was made by means of an Application filed by Mexico. In its Application in the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, the Applicant asked the Court to interpret paragraph 153 (9) of the said Judgment.

(b) *Number of pleadings and fixing or extension of time-limits*

(Statute, Arts. 43 and 48; Rules, Arts. 31, 44, 45, 48, 79, para. 9, and 98, para. 3)

In the cases concerning *Maritime Dispute (Peru* v. *Chile)* and *Aerial Herbicide Spraying (Ecuador* v. *Colombia)*, the Court fixed time-limits for the filing of the Applicant's Memorial and the Respondent's Counter-Memorial in each case.

In the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, following its Judgment on the preliminary objections, the Court fixed the time-limit for the filing of the Respondent's Counter-Memorial.

In the cases concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*, *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)* and *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*, the Court fixed time-limits for the filing of the Parties' Replies and Rejoinders.

In the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, the Court fixed the time-limit for the filing of the Respondent's written observations on the above-mentioned request.

(c) *Filing of pleadings*

(Rules, Arts. 45, 49, 50, 51 and 52)

In the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*, the Respondent's Counter-Memorial was filed within the time-limit fixed by the Court.

In the cases concerning *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)* and *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*, the Parties' Replies and Rejoinders were filed within the time-limits fixed by the Court.

Certified copies of all these pleadings were communicated to the other Party in each of these cases.

(d) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56, paras. 1 and 3)

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, on 21 August 2007 Singapore provided the Registry with a new document which it wished to produce under Article 56 of the Rules of Court. On 26 September 2007, Malaysia informed the Court that it did not object to the production of the new document by Singapore on condition that Malaysia's response to the document would also be admitted into the record. On 11 October 2007, the Court decided to authorize the production of the document requested by Singapore and that the document submitted by Malaysia in support of its comments on Singapore's new document would also be added to the case file.

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, on 1 April 2008 Serbia provided the Registry with nine additional documents which it wished to produce. By a letter dated 24 April 2008, Croatia informed the Court that it had no objection to the production of these documents and that it wished, for its part, to produce two new documents. On 2 May 2008, Serbia informed the Court that it did not object to the production of those two new documents. On 6 May 2008, the Registrar notified the Parties that the Court had decided to authorize the production of the documents they wished to submit; these documents, accordingly, were added to the case file.

In the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, on 22 November 2007 Djibouti filed additional documents which it wished to produce in the case. By a letter dated 4 December 2007, France informed the Court that it had no objection to the production of these documents, while observing firstly that this lack of objection could not "be interpreted as consent to an extension of the jurisdiction of the Court as accepted by France in the letter dated 25 July 2006" and, secondly, that "some of the documents produced constitute publications which are readily available, within the meaning of Article 56[, paragraph 4,] of the Rules of Court". By letters of 7 December 2007, the Registrar notified the Parties that the Court had decided to authorize the production of the documents concerned and had duly taken note of the observations made by the Agent of France regarding the interpretation to be given to France's lack of objection to these documents being produced.

In the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*, Romania informed the Court on 30 August 2007 that it wished to produce a new document in accordance with Article 56 of the Rules of Court and provided certain explanations in justification of its request, namely that the document was necessary "in order to make as complete a disclosure as possible, both to the Ukrainian party and to the Court, of material evidence" and that the "lateness of disclosure" was due to the fact that the map had not been "filed together with the main archival sources relevant to this matter". In response, Ukraine informed the Court that it did not consent to the production of the new document, on the grounds that Romania had not

> "acted in compliance with Practice Direction IX, since it did not indicate why it considered it necessary to file this new document now, nor did it provide an explanation why it did not produce this map at an earlier stage in these proceedings".

In view of the absence of consent of Ukraine, on 10 December 2007, the Registrar, on the instructions of the Court, requested that Romania provide further explanations as to why the new document should be regarded as necessary. Such additional explanations were duly submitted by Romania on 18 December 2007. On 23 January 2008, the Parties were informed that the Court, after considering the views of the Parties, had decided, pursuant to Article 56, paragraph 2, of the Rules of Court, to authorize the production by the Government of Romania of the new document in question.

(e) *Evidence*

(Rules, Arts. 57 and 63)

In the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, France informed the Court that it wished to call Mrs. Elisabeth Borrel as a witness during the hearings. By a letter dated 10 January 2008, Djibouti objected to France's request. By letters of 17 January 2008, the Registrar informed the Parties that the Court had deemed that the evidence to be obtained from Mrs. Borrel did not appear to be that of a witness called to establish facts within her personal knowledge which might help the Court to settle the dispute brought before it, and that consequently the Court had decided not to accede to France's request.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

The Court, after ascertaining the views of the Parties, decided that copies of the pleadings and documents annexed should be made accessible to the public on the opening of the oral proceedings in the following cases: *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)* and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*.

In the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, the Court, after ascertaining the views of the Parties, decided that copies of the pleadings and documents annexed should be made accessible to the public on the opening of the oral proceedings, with the exception of one of the documents filed by Djibouti. This document was from the record in judicial proceedings pending in France, and French law forbade its publication before it had been read in a public hearing. Since France had requested the Court to delay making the document available to the public, the Court decided that the document in question would not be made accessible to the public until the date when the hearing would open before the court in which the judicial proceedings were pending, in order to comply with the ban on publication provided for by French law. The Court also decided that, during the oral proceedings before the Court, the Parties would in no circumstances be able to refer to the document concerned or comment on its contents in a way which could be regarded as equivalent to publication.

(g) *Requests by the Court for documents to be produced*

(Statute, Art. 49; Rules, Art. 62, para. 1)

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, Croatia requested on 24 April 2008 that the Court call upon Serbia to produce a certain number of documents; it provided additional information relating to this request by a letter dated 29 April 2008. On 2 May 2008, Serbia informed the Court of its observations with regard to Croatia's request, and expressed, *inter alia*, "certain doubts as to whether the given request submitted at this stage of the proceedings and in this moment of time could serve the interests of a sound administration of justice". On 6 May 2008, the Registrar notified the Parties of the Court's decision not to accede to Croatia's request that the Court call upon Serbia to produce a certain number of documents. The Court was not satisfied that the production of the requested documents was necessary for the purpose of ruling on preliminary objections; it also considered that Croatia had failed to provide sufficient reason to justify the great lateness of its request and that to accede to this request made at this very late juncture would, in addition, raise many practical problems.

(h) *Indication by the Court of points to be addressed by the Parties*

(Statute, Art. 49; Rules, Art. 61, para. 1)

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, by letters dated 6 May 2008, the Registrar informed the Parties that the Court asked them to address, during the hearings, the issue of the capacity of the Respondent to participate in proceedings before the Court at the time of filing of the Application, given the fact that the issue had not been addressed as such in the written pleadings.

(i) *Oral proceedings*

(Statute, Arts. 43, 45, and 46; Rules, Arts. 54, 57, 58, 59, 60, para. 1, 70, 71, 74 and 79, paras. 6 and 7)

The hearings in the cases concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* and *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)* consisted of two rounds of oral argument, in which both Parties participated.

The hearings on the preliminary objections to jurisdiction and admissibility in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)* consisted of two rounds of oral argument, in which both Parties participated.

The hearings on the request for the indication of provisional measures submitted by the Applicant in the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico v. United States of America) *(Mexico* v. *United States of America)* consisted of two rounds of oral argument, in which both Parties participated.

(j) *Questions by judges*

(Statute, Art. 45; Rules, Arts. 61 and 72)

During the hearings in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, a Member of the Court put questions to the Parties, to which they replied orally and in writing. Each Party presented comments on the written replies given by the other Party and received by the Court after the closure of the oral proceedings.

During the hearings in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, Members of the Court put questions which were answered orally. Djibouti presented written comments on the reply given by France to one of the questions it was asked.

During the hearings in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, a Member of the Court put a question which was answered orally and in writing. Croatia presented written comments on the written reply given by Serbia.

During the hearings on the request for the indication of provisional measures in the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, a Member of the Court put a question to the United States which was answered orally.

(k) *Final submissions*

(Rules, Art. 60, para. 2)

In the second round of oral argument on the request for the indication of provisional measures in the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, the Agents of the Parties read out the final submissions of their Governments, which were also submitted in writing.

In the second round of oral argument on the preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, the Agents of the Parties read out the final submissions of their Governments, which were also submitted in writing.

In the second round of oral argument in the cases concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* and *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, the Agents of the Parties read out the final submissions of their Governments, which were also submitted in writing.

(l) *Provisional measures*

(Statute, Arts. 41 and 48; Rules, Arts. 73 and 74)

In the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, Mexico accompanied its Application with a request for the indication of provisional measures. The Court subsequently held hearings on the request, during which both Parties presented oral observations.

Following these hearings, the Court made an Order in which it indicated certain provisional measures.

(m) *Reading of the decisions of the Court*

(i) *Judgments*

(Statute, Art. 58; Rules, Arts. 94 and 95)

The Judgments of the Court in the cases concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)* and *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)* were read at public sittings by the President.

The Judgment of the Court in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* was read at a public sitting by the Vice-President of the Court, acting as President in the case. In view of the length of the texts, certain passages were omitted or summarized. Duly signed and sealed copies were transmitted to the Agents of the Parties after the readings.

(ii) *Orders*

The Order on the request for the indication of provisional measures in the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)* was also read at a public sitting by the President.

(n) *Separate and dissenting opinions*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*, one Member of the Court and one judge *ad hoc* appended declarations to the Judgment of the Court; two Members of the Court appended separate opinions; the other judge *ad hoc* appended a dissenting opinion.

In the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, four Members of the Court and one judge *ad hoc* appended declarations to the Judgment of the Court on the preliminary objections raised by the Respondent; two Members of the Court appended separate opinions; two Members of the Court appended dissenting opinions.

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, two Members of the Court appended declarations to the Judgment of the Court; one Member of the Court and one judge *ad hoc* appended separate opinions; two Members of the Court appended a joint dissenting opinion; the other judge *ad hoc* appended a dissenting opinion.

In the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, three Members of the Court and one judge *ad hoc* appended declarations to the Judgment of the Court; four Members of the Court and the other judge *ad hoc* appended separate opinions.

In the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) *(Mexico* v. *United States of America)*, two Members of the Court appended dissenting opinions to the Order on the request for the indication of provisional measures; three Members of the Court appended a joint dissenting opinion.

III. PEACE PALACE MUSEUM

On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum created by the International Court of Justice and situated in the south wing of the Peace Palace.

Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the subsequent construction of the Peace Palace as a seat for international justice; as well as the establishment and the functioning of the Permanent Court of International Justice and the present Court (different displays showcase the genesis of the United Nations; the Court and its Registry; the Judges on the Bench; the provenance of Judges and cases; the procedure of the Court; the world's legal systems; the case-law of the Court; prominent visitors).

IV. VISITS

A. Working Visit by Her Royal Highness Princess Astrid of Belgium

On 11 June 2008, the Court was paid a visit by Her Royal Highness Princess Astrid of Belgium. The Princess was welcomed by the Registrar of the Court, Mr. Philippe Couvreur, of Belgian nationality, who presented Belgian staff members of the Court's Registry to her. She was then received by the President of the Court, Judge Rosalyn Higgins, who presented to her a number of the President's colleagues on the Bench and showed her the Court's deliberation room. Princess Astrid was accompanied by a party consisting of H.E. Mr. Luc Carbonez, Ambassador of Belgium to the Netherlands; H.E. Mr. Yves Haesendonck, Ambassador, Permanent Representative of Belgium to the International Organizations in The Hague; Mr. Paul Ponjaert, Honorary Ambassador and Counsellor to the Princess; and Ms Stéphanie Rutten, an expert in humanitarian law.

A luncheon was held in honour of the Princess, attended by Members of the Court and of the International Criminal Tribunal for the former Yugoslavia (ICTY), to which the Princess had paid a visit in the morning. After the luncheon, Princess Astrid was invited to sign the visitors' book and was presented with a gift by the President of the Court. The Princess then had a private discussion with the President and the Registrar concerning the recent activity of the Court and issues of international humanitarian law. Following this discussion, the Registrar escorted the Princess on a tour of the principal features of the Peace Palace. In particular, he drew her attention to the bronze doors of the main entrance to the building, which were a gift from Belgium.

B. Other Visits

During the period under review, the President and Members of the Court, as well as the Registrar and Registry officials, welcomed a large number of dignitaries, including members of governments, diplomats, parliamentary representatives, presidents and members of judicial bodies, and other senior officials, to the seat of the Court.

A noticeable trend has been increasingly frequent interest by leading national and regional courts in coming to the Court for an exchange of ideas and views. An "inter-court" colloquium was held in The Hague on 3 December 2007 with the Court of Justice of the European Communities, the European Court of Human Rights and the International Criminal Tribunal for the former Yugoslavia (ICTY). Another, with the International Tribunal for the Law of the Sea (ITLOS), took place on 26 February 2008. The Court has also pursued electronic exchanges of relevant information with a range of other courts and tribunals.

There were also many visits by national judges, senior legal officials, researchers, academics, lawyers and other members of the legal profession, as well as by many others (including journalists, students and members of the public). For several of these visitors, presentations were made by the President and/or Members of the Court.

V. ADDRESSES, LECTURES AND PUBLICATIONS ON THE WORK OF THE COURT

During the period under review, the President of the Court, Judge Higgins, in her official capacity, addressed the 42nd plenary meeting of the Sixty-second Session of the General Assembly on 1 November 2007 on the occasion of the presentation of the Court's Annual Report. On 2 November 2007, she also gave an address to the Sixth Committee of the General Assembly and was invited to speak before the United Nations Security Council during a private meeting. On 29 October 2007, while in New York, Judge Higgins addressed a meeting of Legal Advisers of Ministries of Foreign Affairs. She also met with the Secretary-General of the Asian-African Legal Consultative Organization and circulated a speech to the members of this organization on 5 November 2007.

During the period under review, the President of the Court delivered a speech on the occasion of the 60th anniversary of the International Law Commission in Geneva on 19 May 2008. On 22 July 2008, President Higgins again addressed the members of the International Law Commission in Geneva during their plenary meeting. Judge Higgins also made official visits to Morocco in connection with the fiftieth anniversary of the Supreme Court, and to the United Arab Emirates, where she gave a number of lectures. She also gave speeches at various colloquiums held in the Netherlands, the United Kingdom and Sweden.

VI. REPORT AND REPRESENTATION OF THE COURT AT THE GENERAL ASSEMBLY

On the occasion of the sixty-second session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 2006 to 31 July 2007 (A/62/4). This report was divided into an introductory summary and ten further chapters, relating to the organization, jurisdiction and judicial work of the Court, visits, lectures, the Court's publications and documents, and administrative and budgetary issues. The General Assembly took note of the report at its 42nd plenary meeting held on 1 November 2007.

On that occasion the President who, with the Registrar represented the Court at the sixty-second session of the General Assembly, addressed that body on the role and functioning of the Court (A/62/PV.42). The full text of the address is reproduced in the Appendix to this Chapter (see below, pp. 348-357). Following the presentation of the Court's report by its President, the representatives of Algeria, Egypt, Honduras, India, Japan, Kenya, Malaysia, Mexico, New Zealand[1], Nicaragua, Nigeria, Pakistan, Peru, the Philippines, Portugal, the Republic of Korea, South Africa and Sudan made statements. Those members of the Court who were present in New York also attended part of the sixty-second session of the General Assembly.

A report dealing with the period 1 August 2007 to 31 July 2008 will be submitted on the occasion of the sixty-third session of the General Assembly (A/63/4).

VII. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 2007 and 31 July

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[1] The representative of New Zealand, Mr. van Bohemen, also spoke on behalf of Australia and Canada.

2008 the Court received approximately 2,000 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

1. ACTION PURSUANT TO ADVISORY OPINIONS OF THE COURT

The present heading contains the information received in the Registry between 1 August 2007 and 31 July 2008 concerning action taken pursuant to certain Advisory Opinions of the Court. The Registry, which does not take the initiative of seeking such information, publishes it without comment as and when it is received and can accept no responsibility in connection with it.

Legality of the Threat or Use of Nuclear Weapons

By a note dated 15 October 1996 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 8 July 1996 to the General Assembly (United Nations doc. A/51/218).

At the 79th plenary meeting of its fifty-first session, held on 10 December 1996, the General Assembly adopted resolution 51/45 M, at the 67th plenary meeting of its fifty-second session, held on 9 December 1997, resolution 52/38 O, at the 79th plenary meeting of its fifty-third session, held on 4 December 1998, resolution 53/77 W, at the 69th plenary meeting of its fifty-fourth session, held on 1 December 1999, resolution 54/54 Q, at the 69th plenary meeting of its fifty-fifth session, held on 20 November 2000, resolution 55/33 X, at the 68th plenary meeting of its fifty-sixth session, held on 29 November 2001, resolution 56/24 S, at the 57th plenary meeting of its fifty-seventh session, held on 22 November 2002, resolution 57/85, at the 71st plenary meeting of its fifty-eighth session, held on 8 December 2003, resolution 58/46, at the 66th plenary meeting of its fifty-ninth session, held on 3 December 2004, resolution 59/83, at the 61st plenary meeting of its sixtieth session, held on 8 December 2005, resolution 60/76 and at the 67th plenary meeting of its sixty-first session, held on 6 December 2006, resolution 61/83, the full texts of which are reproduced in *I.C.J. Yearbook 1996-1997*, pp. 205-206, *I.C.J. Yearbook 1997-1998*, pp. 286-288, *I.C.J. Yearbook 1998-1999*, pp. 313-315, *I.C.J. Yearbook 1999-2000*, pp. 278-280, *I.C.J. Yearbook 2000-2001*, pp. 317-319, *I.C.J. Yearbook 2001-2002*, pp. 306-307, *I.C.J. Yearbook 2002-2003*, pp. 325-327, *I.C.J. Yearbook 2003-2004*, pp. 322-324, *I.C.J. Yearbook 2004-2005*, pp. 278-280, *I.C.J. Yearbook 2005-2006*, pp. 278-279 and *I.C.J. Yearbook 2006-2007*, pp. 297-299 respectively.

At the 61st plenary meeting of its sixty-second session, held on 5 December 2007, the General Assembly adopted resolution 62/39, the full text of which is reproduced below:

"Follow-up to the Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*

The General Assembly,

Recalling its resolutions 49/75 K of 15 December 1994, 51/45 M of 10 December 1996, 52/38 O of 9 December 1997, 53/77 W of 4 December 1998, 54/54 Q of 1 December 1999, 55/33 X of 20 November 2000, 56/24 S of 29 November 2001, 57/85 of 22 November 2002, 58/46 of 8 December 2003, 59/83 of 3 December 2004, 60/76 of 8 December 2005 and 61/83 of 6 December 2006,

Convinced that the continuing existence of nuclear weapons poses a threat to all humanity and that their use would have catastrophic consequences for all life on Earth, and recognizing that the only defence against a nuclear catastrophe is the total elimination of nuclear weapons and the certainty that they will never be produced again,

Reaffirming the commitment of the international community to the goal of the total elimination of nuclear weapons and the creation of a nuclear-weapon-free world,

Mindful of the solemn obligations of States parties, undertaken in article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effective measures relating to cessation of the nuclear-arms race at an early date and to nuclear disarmament,

Recalling the principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Emphasizing the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, adopted at the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Recalling the adoption of the Comprehensive Nuclear-Test-Ban Treaty in its resolution 50/245 of 10 September 1996, and expressing its satisfaction at the increasing number of States that have signed and ratified the Treaty,

Recognizing with satisfaction that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok, Pelindaba and Semipalatinsk, as well as Mongolia's nuclear-weapon-free status, are gradually freeing the entire southern hemisphere and adjacent areas covered by those treaties from nuclear weapons,

Stressing the importance of strengthening all existing nuclear-related disarmament and arms control and reduction measures, *Recognizing* the need for a multilaterally negotiated and legally binding instrument to assure non-nuclear-weapon States against the threat or use of nuclear weapons,

Reaffirming the central role of the Conference on Disarmament as the sole multilateral disarmament negotiating forum, and regretting the lack of progress in disarmament negotiations, particularly nuclear disarmament, in the Conference during its 2007 session,

Emphasizing the need for the Conference on Disarmament to commence negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time,

Expressing its regret over the failure of the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to reach agreement on any substantive issues,

Expressing its deep concern at the lack of progress in the implementation of the thirteen steps to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons agreed to at the 2000 Review Conference of the Parties to the Treaty,

Desiring to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or use of nuclear weapons and their destruction under effective international control,

Recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,

Taking note of the relevant portions of the note by the Secretary-General relating to the implementation of resolution 61/83,

1. *Underlines once again* the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control;

2. *Calls once again upon* all States immediately to fulfil that obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination;

3. *Requests* all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of the present resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its sixty-third session;

4. *Decides* to include in the provisional agenda of its sixty-third session the item entitled 'Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*'." [Footnotes not reproduced.]

2. THE ROLE AND FUNCTIONING OF THE COURT

At the 42nd meeting of the sixty-second session of the General Assembly, held on 1 November 2007, at which the General Assembly took note of the report of the Court for the period from 1 August 2006 to 31 July 2007 (see above p. 343), the President of the Court, Judge Rosalyn Higgins, gave the following address:

> "Vice-President,
> Excellencies,
> Ladies and Gentlemen,
>
> I am very pleased to address the General Assembly on the occasion of its examination of the Report of the International Court of Justice (ICJ) for the period 1 August 2006 to 31 July 2007. The opportunity for the President to speak to the General Assembly on the occasion of the Court's Report is a tradition which the Court greatly values.
>
> As you know, all United Nations Members are *ipso facto* parties to the Court's Statute. There are thus 192 States currently that are parties to the Statute of the Court, 65 of which have accepted the compulsory jurisdiction of the Court in accordance with Article 36, paragraph 2, of the Statute. Furthermore, approximately 300 treaties refer to the Court in relation to the settlement of disputes arising from their application or interpretation.
>
> The Court has been applying the work methods on which I reported to you last year – that is, dealing with always more than one case at a time, producing judgments in a timely fashion, taking short vacations and working intensely.
>
> I am pleased to inform you that the Court has had a very productive year. This year the Court has already delivered three substantive Judgments, one of them just three weeks ago and falling outside of the period covered by the Annual Report. Even before 31 July 2007, the Court had already handed down two Judgments and one order on a request for the indication of provisional measures. In addition, the Court has in this period completed hearings in three cases. First, it heard oral argument on preliminary objections in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)* in November and December 2006, delivering its Judgment a short five months later. Second, the Court also completed hearings on the merits in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)* in March 2007, and that Judgment has just been delivered three weeks ago. Finally, the Court also heard oral argument on the preliminary objections in the *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)* in June 2007. That Judgment is under preparation.
>
> I wish to emphasize that the Judgments of the Court represent a work effort that fully engages its members throughout the year.

Cases coming before the Court are never trivial matters. They are of immense importance to the countries concerned, who put in voluminous written pleadings, and often ask for two rounds to explain their legal arguments and supporting materials. In the *Malaysia/Singapore* case, for example, which begins next week, every judge must study some 4,000 pages. The Parties are entitled to expect that we will examine every single thing they put before us, and we do. There follows the often lengthy oral arguments that the States concerned wish to make. And our work on the judgment that will follow is collegial – it is not passed over to a *juge-rapporteur*. We are, after all, the United Nations principal judicial organ, representing all the leading judicial systems of the world. So we draft every word ourselves; all of us deliberate as to what our findings will be; a small drafting committee, selected by the Court itself, prepares the draft judgment; and every single judge is engaged in the collegial process of polishing and refining the judgment, making sure that no legal points are missed.

During the period under review, one new case was entered on the General List: *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*. Djibouti filed an Application on 9 January 2006, but the Court took no action in the proceedings until France consented on 9 August 2006 to the Court's jurisdiction pursuant to Article 38, paragraph 5, of the Rules of Court.

The cases we have decided in this period have involved States from Latin America, Europe and Africa. The subject-matter that interests the States of those regions has ranged from environmental matters to genocide to diplomatic protection of shareholders to maritime delimitation.

The current number of cases on the docket is 11. There are three cases between European States, three between Latin American States, two between African States, one between Asian States, whilst two are of an intercontinental character. The Court thus manifestly remains the Court of the entire United Nations.

Today I plan, as is traditional, to report on the Judgments rendered by the International Court over the past year. I shall deal with those decisions in chronological order.

On 23 January 2007, the Court handed down an Order in the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)* on a request for the indication of provisional measures submitted by Uruguay.

In May 2006, Argentina initiated proceedings against Uruguay concerning the construction of two pulp mills on the River Uruguay, which constitutes the border between the two States in that region. Argentina alleges that Uruguay unilaterally authorized the construction of the two pulp mills in violation of its obligations under the 1975 Statute of the River Uruguay, a treaty signed by the two States for the 'optimum and rational utilization' of the river.

Argentina claims that the mills pose a threat to the river and its environment, are likely to impair the quality of the river's water and to cause significant transboundary damage to Argentina.

In an Order dated 13 July 2006, the Court rejected a request by Argentina for the indication of provisional measures, finding that the circumstances at the time did not require it to exercise its power to indicate provisional measures.

On 29 November 2006, Uruguay submitted its own request for the indication of provisional measures on the grounds that, since 20 November 2006, organized groups of Argentine citizens had blockaded a vital international bridge over the river, that this was causing great economic damage to Uruguay, and that Argentina had taken no steps to put an end to the blockade. Uruguay requested the Court to order Argentina, first, to take 'all reasonable and appropriate steps . . . to prevent or end the interruption of transit between Uruguay and Argentina', second, to abstain from action that might aggravate, extend or make more difficult the settlement of the dispute and, third, to abstain from any other measure that might prejudice the rights of Uruguay in dispute before the Court.

In its Order of 23 January 2007, the Court found that the circumstances, as they then presented themselves to the Court, were not such as to require the exercise of its power to indicate provisional measures. In this regard, the Court was not convinced that the blockades risked prejudicing irreparably the rights which Uruguay claimed on the basis of the 1975 Statute nor that, were there such a risk, it was imminent. The Court observed that, despite the blockades, the construction of one of the pulp mills had progressed significantly since summer 2006 and that work continued.

Argentina and Uruguay have since elected to have a second round of written pleadings, and the Court has fixed the date of 29 July 2008 as the time-limit for the filing of the last of these pleadings.

On 26 February 2007, the Court rendered its Judgment in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro)*. This is the first case before any court in which allegations of genocide had been made by one State against another.

The Court had already found that it had jurisdiction in a previous Judgment rejecting the preliminary objections raised by the then Federal Republic of Yugoslavia (or FRY). However, the Respondent was permitted to address the Court on renewed issues of jurisdiction said to arise out of its admission as a Member of the United Nations in 2000. In its Judgment of 26 February 2007, the Court affirmed that it had jurisdiction on the basis of Article IX of the Genocide Convention.

The Court noted that, since its jurisdiction was based solely on the Genocide Convention, it could only rule on genocide and associated violations of the Convention and could not rule on breaches of other obligations in international law. The Court initially determined that States parties to the Genocide Convention were bound not to commit genocide or any of the other acts prohibited in the Convention through the actions of their organs or persons or groups whose acts were attributable to them. It also noted that in order to make a finding of genocide, it was necessary to establish specific intent to destroy the protected group as such in whole or in part. The Court considered that the protected group in the case was that of the Bosnian Muslims.

In its Judgment, the Court made extensive and detailed findings of fact as to whether alleged atrocities occurred and, if so, whether the facts established the specific intent to destroy in whole or in part the group of the Bosnian Muslims. The Court examined the factual allegations according to the categories of prohibited acts set out in the Genocide Convention, namely, killing, causing serious bodily or mental harm, deliberately inflicting conditions of life calculated to bring about the physical destruction of the group, preventing births within the group and transferring children to another group.

The Court found that there was overwhelming evidence that massive killings and many other atrocities were perpetrated during the conflict but it could not find, on the basis of the evidence before it, that those acts were committed with the specific intent to destroy in whole or in part the group of the Bosnian Muslims. However, the Court did find that the killing of more than 7,000 Bosnian Muslim men at Srebrenica by Bosnian Serb forces had been accompanied by the intent to destroy in part the group of the Bosnian Muslims. Accordingly, it found that the events in Srebrenica constituted genocide.

The Court then turned to the question of whether it could be established that the then FRY had been responsible for the genocide committed at Srebrenica. Judging on the basis of the materials before it, the Court found that the acts of genocide had not been committed by persons or entities which could be considered to be organs of the FRY. The Court further found that it had not been established that the massacres were committed on the instructions or under the direction of the FRY nor that the FRY exercised effective control over the operations in question. Consequently, in the light of the information available to it, the Court found that the acts of those who committed genocide at Srebrenica could not be attributed to the Respondent under the rules of international law on State responsibility.

The Court did, however, find that the Respondent had violated its obligation under Article 1 of the Genocide Convention to prevent the genocide in Srebrenica. The Court noted that, owing to the strength of the political, military and financial links between the FRY and the Bosnian Serbs, the FRY had been in a position of influence over the Bosnian Serbs who devised and implemented the genocide in Srebrenica. The Court found that, despite the fact that the Respondent was aware or should normally have been aware of the serious risk of genocide in Srebrenica, it had not shown that it employed all means reasonably available to it in order to prevent the atrocities.

The Court further held that the Respondent had violated its obligation under Article VI of the Genocide Convention to co-operate fully with the ICTY with respect to the arrest and handing over for trial of General Ratko Mladić and thus violated its obligation to punish genocide under Article I of the Convention.

Finally, the Court found that the Respondent had breached the Court's earlier Orders indicating provisional measures by failing to take all measures within its power to prevent the commission of genocide and to ensure that organizations and persons which may be subject to its influence did not commit any acts of genocide.

As regards reparations for the Respondent's violation of the obligation to prevent genocide, the Court recalled that the Applicant had in fact suggested that a declaration of the Court would itself be appropriate satisfaction, and it made a declaration to that effect. As for the obligation to punish acts of genocide, the Court found that a declaration in the operative clause that the Respondent had violated its obligations under the Convention and that it must immediately take effective steps to comply with its obligation to punish acts of genocide, to transfer individuals accused of genocide to the ICTY and fully to co-operate with that Tribunal would constitute appropriate satisfaction.

After having considered disputes in South America and Europe, the Court next turned to Africa. On 24 May 2007, it handed down its Judgment on the admissibility of the Application in the case concerning *Ahmadou Sadio Diallo* brought by the Republic of Guinea against the Democratic Republic of Congo (hereinafter the 'DRC').

This case raised important issues relating to the diplomatic protection by States of their nationals. It concerns Mr. Ahmadou Sadio Diallo, a businessman of Guinean nationality who was resident in the DRC for 32 years and was the *gérant* of and *associé* (a type of shareholder) in two companies incorporated under Congolese law named Africom-Zaire and Africontainers-Zaire. Guinea claimed that Mr. Diallo was unjustly imprisoned by the authorities of the DRC, that he was deprived of his investments, businesses, property and bank accounts and finally that he was expelled from the DRC. Guinea argued that those actions by the DRC violated Mr. Diallo's rights and that, according to the law of diplomatic protection, the DRC had committed internationally wrongful acts which engaged its responsibility to Guinea.

The Court noted that Guinea sought to exercise diplomatic protection with regard to Mr. Diallo for the violation of three categories of rights: Mr. Diallo's individual personal rights, his direct rights as an *associé* in Africom-Zaire and Africontainers-Zaire, and the rights of those companies themselves by 'substitution'.

With regard to Mr. Diallo's individual rights, the Court found that Guinea had standing to seek to protect those rights since Mr. Diallo had Guinean nationality. It further found that this part of the Application was admissible since Mr. Diallo had exhausted all available and effective remedies in the DRC against the violation of his rights.

Turning to Mr. Diallo's direct rights as *associé*, the Court, having considered Congolese company law and the relevant law of diplomatic protection, held that Guinea also had standing to seek to protect those rights. It further held that this part of the Application was admissible since Mr. Diallo had exhausted all available and effective remedies in the DRC against the violation of his rights as *associé*.

The complicated part of the case was whether Guinea could exercise diplomatic protection of Mr. Diallo with respect to alleged violations of the rights of the two companies of Congolese nationality, Africom-Zaire and Africontainers-Zaire. This is also known as the theory of diplomatic protection 'by substitution'. It seeks to allow a State indirectly to offer protection to its nationals who are shareholders in a company of a different nationality in situations where the rights of those shareholders are not protected under a treaty and no other remedy is available because the allegedly unlawful acts were committed against the company by the State of its own nationality. This would be an exception to the usual rule in international law that the right of diplomatic protection of a company may only be exercised by the State of nationality of the company. Having carefully examined the practice of States and the decisions of international courts and tribunals on this question, the Court concluded that, at least at the present time, there was no established exception in international law allowing for diplomatic protection by substitution. Guinea therefore had no standing to seek to protect the rights of the two companies and this part of the Application was inadmissible.

The Court has now fixed the time-limit for the filing of written pleadings on the merits by the DRC.

In terms of what is next on the horizon for the International Court, next week we begin public hearings on the merits in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. I am glad to let you know that the Court has decided to open hearings on 21 January 2008 in the case *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*. Later in the year, we will hold hearings in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v.

Serbia) and *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*.

Last year I informed you that our aim was to increase further our throughput while retaining the high quality of our Judgments. As must be apparent from what I have today reported to you, we have indeed made much progress.

The Court has always delivered its Judgments within a reasonable time after the conclusion of hearings in a case. There has never been a problem with that phase of proceedings. But we have in the past had problems with the scheduling of oral hearings and a 'backlog' had built up. By 'backlog', I am referring to a State having to wait an unreasonably long time after the deposit of the written pleadings for oral hearings to be scheduled.

At the beginning of 2006 it seemed possible that if we really made a prodigious effort we would be able to clear the backlog of cases by 2008. I am extremely happy to report that we have essentially reached that stage *now*. In planning our schedule for the coming year, we were in a position to hear any cases in which the Parties had exchanged a single round of written pleadings and were ready to be heard. In some instances, of course, States prefer to have an extra round of written pleadings; so we will wait until that process is complete before scheduling the oral hearings. Thus, some occasional delay in bringing on the oral hearings is now a product of the choice of the States to ask for a further written round, and not of any backlog in the Court.

The important thing is that States thinking of coming to the International Court can today be confident that as soon as they have finished their written exchanges, we will be able to move to the oral stage in a timely manner.

Having achieved this goal, our push for efficiency continues. Unfortunately, we have had to spend more time than we would have wished this year on a matter not of our choosing. I am referring to the consequences of the adoption of General Assembly resolution 61/262 on 'Conditions of Service and Compensation for Officials other than Secretariat Officials: Members of the International Court of Justice and Judges and *ad litem* Judges of the ICTY and the ICTR'. Informed at the last moment of the imminent adoption of this resolution (on which the Court had not been consulted), I sent a letter to the President of the General Assembly, which was circulated to all Permanent Representatives, expressing the Court's deep concern that the proposed action regarding emoluments under the resolution would create inequality among judges, which is prohibited under our Statute. This issue will be addressed in the forthcoming Secretary-General's Report on 'Conditions of Service and Compensation for Officials other than Secretariat Officials'. A memorandum we produced in July to assist the Office of the Secretary-General in the preparation of this forthcoming Report clearly lays out the serious legal consequences arising out of resolution 61/262, including the fact that it establishes a transitional measure that draws a distinction between current judges of the Court and those judges elected after 1 January 2007. This will result in judges elected after 1 January 2007 having an income substantially below the current remuneration. It would be the first time in the history of the United Nations that judicial salary levels are *reduced*. And it would be without precedent – and *this* is the key point – that judges on the same Bench would receive different salaries. Equality between the judges of the ICJ is one of the fundamental principles underlying the Statute of the Court. It should be recalled that the parties appearing before the Court are sovereign States, not individuals. Although judges serve as independent members of the judiciary, States are entitled to assume that a judge of their nationality, whose election they have worked hard for, is in a position of full equality with all other judges on the Bench. No discrepancy in treatment can be allowed to exist, not only among permanent judges but also between permanent judges and judges *ad hoc* chosen by States parties to a litigation not having a national on the Bench, or between two judges *ad hoc*. Indeed, this is what the Statute of the ICJ requires – and this Statute is an integral part of the United Nations Charter, attached *to* the Charter, and has a central status in United Nations instruments. It is not just to be ignored or put aside.

Let me put this to you in graphic terms: when you come to the Court with a case and you do not have a judge of your nationality on the Bench, are you going to be pleased that the judge *ad hoc* to which you will be entitled will be paid less than the rest of us, and perhaps less than the judge *ad hoc* nominated by the other party, if that other judge *ad hoc* was appointed before 1 January 2007? Was this really what you thought you were achieving when you passed resolution 61/262 in April? I cannot believe that any State represented in this Hall wishes to put judges of their own nationality in a position of financial inferiority to others. Nor do Member States of the United Nations wish to see the Statute of the Court violated.

The deep irony is that paragraph 7 of resolution 61/262, the purpose of which was officially to address certain budgetary matters related to the ICTY and ICTR, in fact at the present time has its negative impact *only* on the ICJ. No further elections are envisaged for the ICTY till 2009, and the Tribunal has until then a sufficiency of judges *ad litem* for its work. If the term of office of the ICTY judges were in 2009 to be extended, instead of there being new elections upon the end of their current term, the adverse impact of the provisions of paragraph 7 of resolution 61/262 would even then concern only the ICJ. Moreover, there may well be no new elections for ICTR judges. The ICJ stands alone at the moment in bearing the negative impact of this resolution and all the problems of principle that it brings with it about the equality of judges under the Court's Statute. We have cases here and now where judges *ad hoc* are coming and the Statute clearly requires that they be in a position of equality with other judges and each other. Further, the Court will have elections for new judges in Autumn 2008.

I do not believe that the Fifth Committee and the General Assembly ever meant that the Court alone should be put in a disadvantageous situation and I do not believe that the Fifth Committee and the General Assembly ever meant to put the Court in conflict with its Statute. I do not believe they ever meant to create awkward situations for States appearing in front of the Court. For our part, we do appreciate the understandable objectives behind the resolution, both as regards transparency and as regards putting the ICTR back into a position of real equality with the ICTY and the ICJ. I am hopeful that the Secretary-General's forthcoming Report on 'Conditions of Service and Compensation for Officials other than Secretariat Officials' will provide some solutions that will meet all of our legitimate needs and concerns.

You will remember that, last year, I also highlighted one matter in the International Court's budget request for 2008-2009: the request for nine P-2 law clerks, which would enable us to achieve a full complement of one law clerk for each Member of the Court – a request first raised nine years ago by President Schwebel. I explained to you that this form of assistance is routinely provided to every other international court and tribunal, and many senior national courts. The judges of the ICTY, ICTR – and indeed the ICC, just beginning its work – each have a law clerk. Law clerks can do the sort of support work for us, such as researching, analysing, and laying out data, that will allow judges to get on with addressing legal issues, drafting the judgments, and maximizing the service we provide to the United Nations membership.

If we are granted a limited number of extra law clerks, of course that will be an appreciated gesture by the United Nations. But it remains the case that we do need a law clerk *each* in view of the increasing number of fact-intensive cases and the rising importance of researching, analysing and evaluating diverse materials.

Vice-President,
Excellencies,
Ladies and Gentlemen,

This year marks the 100-year anniversary of the 1907 Hague Peace Conference and various events have been held in The Hague to mark this centenary. It was at the Hague Peace Conference that the idea of a standing international court was born. The momentum towards the launching of an international court was interrupted by the First World War, but the founding of the Permanent Court of International Justice in 1922 and its legal continuation as the International Court of Justice in 1946, were clearly inspired by the ideas of 1907. Dispute settlement has assumed a greater and greater importance in the past century. Provision for judicial settlement is routinely included, in one form or another, in the vast majority of multilateral treaties. And the past two decades have seen the burgeoning of international courts and tribunals equipped to deal with disputes that might arise under the growing reach of international law.

The interest of States in the International Court has continued to flourish. The Court has handed down 94 Judgments in its 60 years of existence. Of those, *one third* have been delivered in the last decade. I assure you that the Court will continue to work with dedication and its customary impartiality. Our aim is to meet the expectations of those States who entrust us to find a solution for them in a timely fashion whilst always maintaining the high standard of our decisions, born of a collegial working method in which every judge is involved in each stage of a case. We have made great progress in that regard and will continue our efforts in the year to come."

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On 2 November 2007, President Higgins gave the following address to the Sixth Committee of the General Assembly:

"Mr. Chairman,
Distinguished Delegates,

I am delighted to address your Committee today for the second time as President of the International Court of Justice. I congratulate His Excellency Ambassador Alexei Tulbure on his election as Chairman of the Committee for the Sixty-second Session of the General Assembly.

The Sixth Committee's work on the development and codification of international law is of the highest importance and relevance to the International Court of Justice. We closely follow the Committee's activities.

Since you have perhaps heard my speech to the General Assembly, I will not go over the very same ground with you. I thought rather I would share with you today, as I did last year, some thoughts on a legal issue of interest. I have chosen the topic of the judicial determination of relevant facts.

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There is much current work being done on the topic of evidence issues in international courts and tribunals generally. Several articles have appeared, conferences are being held, books are under preparation. It may be helpful if I explain some issues relating to this so far as the ICJ is concerned.

A couple of preliminary remarks:

Occasionally, the Court finds itself faced with issues of pure law. This was so, for example, in the *Genocide Revision* case *(Bosnia and Herzegovina* v. *Yugoslavia)* and the *Arrest Warrant* case *(Democratic Republic of the Congo* v. *Belgium)*. Rather more frequently, the Court is faced with the need to determine facts and law: that is true in virtually every case concerning title to territory. And, with increasing frequency, the Court needs to make very heavy findings of fact, these being critical for the legal issues in dispute.

Findings of fact for a *criminal* court will necessarily entail different procedures from those in a civil court. The ICTY, ICTR and the ICC investigate and prosecute persons accused of serious international crimes. They have detailed pre-trial, trial and appeal procedures for determining individual criminal responsibility. By contrast, the ICJ is a court for determining international law, as it applies to States.

How the judicial determination of facts is done

Any practitioner knows that there are facts and there are 'facts'. Some classical 'legal facts' are said by the parties to flow from the documentation they have produced before us. For example, a certain exchange of correspondence or statements in Parliament may be claimed to show that there was a binding arrangement between States X and Y. This of course requires us to examine all such documentation in meticulous detail. This very often arises in territorial dispute cases, where the two sides have different versions of the history of the relations between them. In the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, for example, we had to determine what exactly had been agreed by whom and in what circumstances. Did the Ruler of Qatar consent to have the question of the Hawar Islands decided by the British Government in an exchange of letters in 1939? Was Janan Island part of the Hawar Island group according to the letters between the British Political Agent in Bahrain to the Rulers of Qatar and Bahrain? In order to answer such questions, the Court examined all the relevant correspondence and archival documents.

In territorial dispute cases, an understanding of the colonial past is invariably necessary. Often, one or both parties will rely on the *uti possidetis juris* principle as the basis of sovereignty over the territory in dispute. As the Chamber of the Court explained in the *Burkina Faso/Mali* case, 'the essence of the principle lies in its primary aim of securing respect for the territorial boundaries at the moment when independence is achieved'. States invoking the *uti possidetis* principle before us may have on their teams, as relevant, counsel from Germany (for Namibia in the *Kasikili/Sedudu Island* case), France (for Chad in *Libya/Chad*), and Britain (for both parties in *Qatar* v. *Bahrain*). In the *Nicaragua* v. *Honduras* case – the Judgment of which was delivered three weeks ago – the 'legal fact' of how maritime matters were handled by the Spanish Crown was pleaded by Spanish counsel on the teams of both Parties.

The Statute and Rules of Court distinguish between 'experts' and 'witnesses'. Persons called by the parties as 'experts' have to make a special declaration before making any statement (Article 64 of the Rules) and are examined by counsel under the control of the President (Article 65 of the Rules). But, in practice, we find that persons with a particular 'expert' knowledge are included as *part of* the teams rather than called as 'experts' under these aforementioned provisions. The task of proving historical facts, for example, is usually done as part of the (written and oral) pleadings of the team. It is not presented as 'expert testimony' as such and there is therefore no cross-examination. The 'expert' lawyer in each team will rather respond to the claimed 'evidence of history' of the other in his own submissions. This person is treated by the Rules of Court as 'counsel' rather than as 'expert'.

We see the same phenomenon of 'expert as team member' with respect to a different kind of evidence/proof, not in relation to history or legal facts, but *technical* in nature. One such instance was the expert opinion advanced as to the impact of river meanders on the identification of the main channel in the *Botswana/Namibia* case. We heard experts on both sides in this case – as team members, not as experts called by the Parties under Articles 57 and 63 of the Rules. After examining evidence put forward as to depth, width, flow, visibility, bed profile configuration, and navigability, the Court concluded that the northern channel of the River Chobe around Kasikili/Sedudu Island must be regarded as its main channel.

On major technical questions, often there will be detailed expert reports annexed to the pleadings for our scrutiny. One only has to look at the case file for the *Gabčíkovo-Nagymaros* case to see this in action. It will be a matter for the team concerned whether they then include that expert in their delegation or whether they leave any oral submissions as to that evidence to counsel. Different choices were made on this by Nicaragua and Honduras in the recent case concerning maritime delimitation. On the question whether there was evidence that the King of Spain attributed maritime spaces to one or other of the provinces of the Captaincy-General of Guatemala, Honduras annexed expert reports to its Rejoinder whereas Nicaragua's counsel analysed historical material during the oral hearings. Parties may even ask the Court to appoint an expert whose report will be officially annexed to the Judgment. In the *Gulf of Maine* case, Canada and the United States requested the Chamber in their Special Agreement to appoint a technical expert nominated jointly by them to assist the Court with, *inter alia*, preparing the description of the maritime boundary and the charts on which its course would be indicated. The Court duly appointed the expert and his Technical Report was annexed to the Judgment.

Expert evidence seems now largely to be assimilated within the submissions of a legal team, but very occasionally *witness* evidence, namely personal testimony as to facts, is still called. The Statute of the Court contains several provisions concerning witnesses: Article 43 (5) provides that witnesses and experts may be part of the oral proceedings; Article 48 permits the Court to 'make all arrangements connected with the taking of evidence'; and Article 51 states that during the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down in the Rules. The Rules, in turn, contain provisions on how parties give notice of their intention to call witnesses, the declarations to be made by a witness or expert, interpretation, and so on.

Only ten cases at the International Court have involved the live testimony of witnesses or experts, and there was a gap of 14 years between the last case in which witnesses were called and the *Bosnia and Herzegovina* v. *Serbia and Montenegro* case. There were early suggestions that the Parties (or one of the Parties) in the *Bosnia* v. *Serbia* case would want to call *hundreds* of witnesses. This obviously presented problematic issues for the Court, including: how to organize the cross-examination of the witnesses, how to secure the confidentiality of the testimony during the hearings, what type of translation to provide for the witnesses and for the Court, the impact of the length of proceedings, the consequences for the overall throughput of the Court, equality between the Parties, and witness protection measures. None of it was insoluble and the Court had provisional plans in place – but in the event, the witness lists of both Parties became entirely manageable in number. The Applicant called two experts, and the Respondent called six witnesses and one witness-expert. The category of 'witness-expert' is not actually mentioned in the Statute or the Rules, but was recognised in the *Corfu Channel* case and subsequently used in the *Temple of Preah Vihear* case and *South West Africa* cases. The term refers to a person who can testify both as to knowledge of facts, and also give an opinion on matters upon which he or she has expertise. In the *Bosnia* v. *Serbia* case, the witnesses and experts were examined and cross-examined in court. We heard testimony as to the structure of the military organizations, the relationship between the army of Republika Srpska and the Yugoslav army, the destruction of cultural heritage, and estimations of the war casualties.

There are exceptional instances of historical testimony which no one would *wish* to challenge. The testimony of the Mayors of Hiroshima and Nagasaki in the advisory proceedings on the *Legality of the Threat or Use of Nuclear Weapons* bore witness to the devastating damage and human misery that befell those cities and their citizens. We were asked to receive the Mayors as experts. The Court suggested that, although not pleading any point of law, they should be included within the delegation of Japan. Not only was this sensible in the particular circumstances of these Mayors; but it also for the time being put to one side another complex issue: can the usual procedures regarding witnesses applicable in contentious cases be applied also in advisory proceedings?

Aside from the witnesses and experts called by the parties, the Court can *itself* call witnesses under Article 62 of the Rules, appoint experts under Article 50 of the Statute, and arrange for an enquiry or expert opinion under Article 67 of the Rules of Court. There has never been a case where witnesses appeared having been called by the Court itself, but it is a possibility that is constantly in its view. There have been two cases where Court-appointed experts have been used: once by the Permanent Court in the *Chorzów Factory* case, and once by the ICJ in the *Corfu Channel* case. In the latter case, the Court appointed a commission of experts under Article 67 of the Rules to make an independent study of facts in dispute between the Parties, which were necessary for the Court to make its decision on the merits. Later, the Court requested from the commission an expert evaluation of the damage sustained by the Applicant in order to assess the quantum of compensation to be paid. In recent years there has been no reliance on such measures. Reviewing evidence presented on technical matters is generally part and parcel of the job of the judge.

Article 66 of the Rules of Court (added in 1978) introduced the possibility of 'visits *in situ*' by the Court, either *proprio motu* or at the request of its party. It was originally intended that these visits would be to collect evidence, but on the one occasion a visit has been undertaken, it was rather for information purposes. In the *Gabčíkovo-Nagymaros* case, Slovakia invited the Court to visit the site on the Danube River where the system of locks to which the case related were located. Hungary agreed to the proposal and the Court visited a number of sites along the Danube River, taking note of the technical explanations given by the representatives designated by the Parties.

The question of the burden of proof

The Court has always said that a party alleging a fact bears the burden to prove it. Sometimes each party will bear that burden, albeit in relation to different claims made. The Court explained in the *Guinea* v. *Congo* case, which concerned diplomatic protection, that it is incumbent on the Applicant to prove that local remedies were indeed exhausted or to establish that exceptional circumstances relieved the allegedly injured person whom the applicant seeks to protect of the obligation to exhaust available local remedies. It was for the Respondent to convince the Court that there were effective remedies in its domestic legal system that were not exhausted.

The question of the standard of proof

The Court's prime objective as to standard of proof appears to have been to retain a freedom in evaluating the evidence, relying on the facts and circumstances of each case. The Court made some observations on the standard of proof in the *Corfu Channel* case of 1949 where it simultaneously rejected evidence 'falling short of conclusive evidence' and referred to the need for a 'degree of certainty'. But the Court has since then been reluctant to specify the standard of proof, even for a particular case. In the *Oil Platforms* case, the Court did not explain the standard of proof to be met; it satisfied itself with saying that it did not have to decide 'on the basis of a balance of evidence' by whom the missile that struck the *Sea Isle City* was fired. It simply noted that the United States had not discharged the necessary burden of proof because 'the evidence available [was] insufficient', without specifying by which criteria sufficiency/insufficiency was being tested. Part of this reluctance to be specific is caused by the gap between the explicit standard-setting approach of the common law and the *'intime conviction du juge'* familiar under civil law; the ICJ naturally has Judges from both of these traditions on its Bench.

When dealing with genocide claims in the recent *Bosnia and Herzegovina* v. *Serbia and Montenegro* case, the Parties wanted to know whether the criminal standard of proof was applicable. The Applicant argued that the matter before the Court was not one of criminal law and that the appropriate standard was therefore the balance of probabilities, inasmuch as what was alleged was breach of treaty obligations. The Respondent, on the other hand, contended that a charge of such exceptional gravity against a State required 'a proper degree of certainty' and the standard should leave no room for reasonable doubt.

In the circumstances of this case, the Court *did* find it necessary to specify a standard of proof to be met. It stated:

> 'The Court has long recognized that claims against a State involving charges of exceptional gravity must be proved by evidence that is fully conclusive (cf. *Corfu Channel (United Kingdom* v. *Albania), Judgment, I.C.J. Reports 1949*, p. 17). The Court requires that it be fully convinced that allegations made in the proceedings, that the crime of genocide or the other acts enumerated in Article III have been committed, have been clearly established. The same standard applies to the proof of attribution for such acts.'

There have been some curious comments by observers as to this being a 'higher' or 'lower' standard than 'beyond reasonable doubt'. It is simply a *comparable* standard, but employing terminology more appropriate to a civil, international law case.

Value as proof

By contrast to its general reluctance to specify a standard of proof, the Court has been, over a series of cases, systematically establishing what types of evidence it has or has not found weighty. The evidence it has had occasion to remark on has naturally depended upon the particular case.

In the *Congo* v. *Uganda* case, the Court was faced with a very complex set of facts and vast amount of documentation provided by both Parties. It undertook a detailed evaluation of the evidence, examining the origin, authenticity and reliability of each source in addition to its substantive content. The Court stated that it would treat with caution evidentiary materials specially prepared for this case and also materials emanating from a single source. It would prefer contemporaneous evidence from persons with direct knowledge and give particular attention to reliable evidence acknowledging facts or conduct unfavourable to the State represented by the person making them.

The Court gave substantial weight to the Report of the Judicial Commission set up by the Ugandan Government and headed by Justice David Porter ('the Porter Report'). The Court noted

> 'that evidence obtained by examination of persons directly involved, and who were subsequently cross-examined by judges skilled in examination and experienced in assessing large amounts of factual information, some of it of a technical nature, merits special attention'.

The Court further observed that, since its publication, there had been no challenge to the credibility of the Porter Report, which had been accepted by both Parties. This so-called 'Porter Test' has since played its part in the case brought by Bosnia and Herzegovina against Serbia and Montenegro, where the Court held that the fact-finding process of the International Criminal Tribunal for the former Yugoslavia (ICTY) fell within this 'Porter' formulation.

In the same way as the *Congo* v. *Uganda* case, *Bosnia* v. *Serbia* was a fact-intensive case for the Court. The oral hearings lasted for two and half months, witnesses were examined and cross-examined, and thousands of pages of documentary evidence were submitted. A substantial portion of the Judgment is devoted to analysing this evidence and making detailed findings as to whether alleged atrocities occurred and, if so, whether the perpetrators possessed the specific genocidal intent. We made our own determinations of fact based on the evidence before us, but we also greatly benefited from the findings of fact that had been made by the ICTY when it was dealing with accused individuals. We distinguished between decisions taken at various stages of the ICTY processes. For example, as a general proposition the inclusion of charges in an indictment cannot be given weight, nor can judgments on motions for acquittal made by the defence at the end of the prosecution's case. By contrast, the Court found that it should in principle accept as 'highly persuasive' relevant findings of fact made by the ICTY at trial, unless of course they had been upset on appeal.

Our most recent Judgment on the merits in the *Nicaragua* v. *Honduras* case addressed the specific evidentiary issue of affidavits. This arose because Honduras had produced sworn statements by a number of fishermen attesting to their belief that the 15th parallel represented and continued to represent the maritime boundary between Honduras and Nicaragua. The Court noted that witness statements produced in the form of affidavits should be treated with caution:

> 'In assessing such affidavits the Court must take into account a number of factors. These would include whether they were made by State officials or by private persons not interested in the outcome of the proceedings and whether a particular affidavit attests to the existence of facts or represents only an opinion as regards certain events. The Court notes that in some cases evidence which is contemporaneous with the period concerned may be of special value. Affidavits sworn later by a State official for purposes of litigation as to earlier facts will carry less weight than affidavits sworn at the time when the relevant facts occurred. In other circumstances, where there would have been no reason for private persons to offer testimony earlier, affidavits prepared even for the purposes of litigation will be scrutinized by the Court both to see whether what has been testified to has been influenced by those taking the deposition and for the utility of what is said. Thus, the Court will not find it inappropriate as such to receive affidavits produced for the purposes of a litigation if they attest to personal knowledge of facts by a particular individual. The Court will also take into account a witness's capacity to attest to certain facts, for example, a statement of a competent governmental official with regard to the boundary lines may have greater weight than sworn statements of a private person.'

These criteria are designed to provide guidance to future Parties who seek to produce affidavits before the Court.

Mr. Chairman,
Distinguished Delegates,

Recent cases such as *Congo* v. *Uganda* and *Bosnia* v. *Serbia* have been particularly fact-heavy, with hundreds of pieces of evidence annexed to the written pleadings of the Parties. And the *Malaysia/Singapore* case, in which hearings will open next week, involves around 4,000 pages of annexes. The judicial determination of relevant facts will be an ever more important task for the Court.

I may add that this task explains the continuing need for each judge to have a law clerk. The ICJ remains *alone* among senior international courts in not having such assistance in the marshalling and collating and checking of evidence.

I will not repeat my speech to the General Assembly, but I do ask that you take special note of what I said there regarding resolution 61/262. You will understand that the Statute of the Court governs us, that we have to sit in equality, and that we cannot have judges on the same Bench receiving different salaries. Nor should the ICJ stand alone as the only judicial body bearing the negative impact of this resolution at the present time. Throughout the United Nations rule of law issues are on the agenda. There is a real rule of law issue right here, and we will appreciate your following matters. What the Court seeks now to do is to find a solution to these problems and we have some concrete proposals contained in the document which will be annexed to the Secretary-General's forthcoming Report on 'Conditions of Service and Compensation for Officials other than Secretariat Officials'.

On behalf of all the Members of the International Court of Justice, I express my best wishes to the Committee for the success of its work this session."

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CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 *(i)*, and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

An analytical index is published for each year's decisions; this may also be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one to three volumes.

Sixty-three bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. The latest is the volume for 2006. (The *I.C.J. Reports 1965*, *1967*, *1968*, *1977*, *1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case, the countries (if a contentious case) and the nature of the decision should be given, e.g.: *Nottebohm (Liechtenstein* v. *Guatemala), Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm (Liechtenstein* v. *Guatemala), Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 374-391, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above: see pp. 208-209.

[2] See Chap. V, p. 214, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the Application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case and the countries involved in parenthesis, e.g.: *I.C.J. Pleadings, Nottebohm (Liechtenstein* v. *Guatemala)*, Vol. I. (See Sec. III, pp. 391-404, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Six volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contained the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

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[1] See Chap. V, pp. 210 and 220, above.

[2] *Ibid.*, pp. 211-212 and 220, above.

[3] *Ibid.*, pp. 212-213 and 220, above.

No. 6 contains the same documents as *No. 5*, but with the text of the Rules as amended by the Court in 2001 and 2005, as well as the Practice Directions adopted in 2001 and amended in 2006. It was published in March 2007, the stock of *No. 5* having been exhausted, and is available in paper covers.

(d) *Yearbook*

Each year a *Yearbook* is published in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the sixty-second in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 43 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955.*

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 52 (year 1998).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7:* 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35:* 81: 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales and Marketing Sections of the United Nations Secretariat:

United Nations, Room DC2-853, 2 United Nations Plaza,
New York, NY 10017, United States of America.
Tel.: +1-212-963 8302; Fax: +1-212-963 3489
E-mail: publications@un.org

They may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is updated each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. *Publications of the Permanent Court of International Justice*

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)
Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)
Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)
Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)
Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)
Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*
Series E (Nos. 1-16): *Annual Reports*
Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order. Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.

German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.

Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.

Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.

Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.

Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.

Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.

Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.

Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.

Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.

Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.

"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.

Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.

Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.

Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.

Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.

Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.

Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.

Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.

Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.

Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.

Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.

Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.

Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.

Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 40, p. 4.

Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A/B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A/B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A/B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A/B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A/B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

Prince von Pless Administration, Order of 2 December 1933, P.C.I.J., Series A/B, No. 59, p. 194.

Polish Agrarian Reform and German Minority, Order of 2 December 1933, P.C.I.J., Series A/B, No. 60, p. 201.

Appeal from a Judgment of the Hungaro/Czechoslovak Mixed Arbitral Tribunal (The Peter Pázmány University), Judgment, 1933, P.C.I.J., Series A/B, No. 61, p. 208.

1934

Lighthouses case between France and Greece, Judgment, 1934, P.C.I.J., Series A/B, No. 62, p. 4.

Oscar Chinn, Judgment, 1934, P.C.I.J., Series A/B, No. 63, p. 65.

1935

Minority Schools in Albania, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 64, p. 4.

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 65, p. 41.

1936

Pajzs, Csáky, Esterházy, Order of 23 May 1936, P.C.I.J., Series A/B, No. 66, p. 4.

Losinger, Order of 27 June 1936, P.C.I.J., Series A/B, No. 67, p. 15.

Pajzs, Csáky, Esterházy, Judgment, 1936, P.C.I.J., Series A/B, No. 68, p. 30.

Losinger, Order of 14 December 1936, P.C.I.J., Series A/B, No. 69, p. 99.

1937

Diversion of Water from the Meuse, Judgment, 1937, P.C.I.J., Series A/B, No. 70, p. 4.

Lighthouses in Crete and Samos, Judgment, 1937, P.C.I.J., Series A/B, No. 71, p. 94.

Borchgrave, Judgment, 1937, P.C.I.J., Series A/B, No. 72, p. 158.

1938

Borchgrave, Order of 30 April 1938, P.C.I.J., Series A/B, No. 73, p. 4.

Phosphates in Morocco, Judgment, 1938, P.C.I.J., Series A/B, No. 74, p. 10.

Panevezys-Saldutiskis Railway, Order of 30 June 1938, P.C.I.J., Series A/B, No. 75, p. 53.

1939

Panevezys-Saldutiskis Railway, Judgment, 1939, P.C.I.J., Series A/B, No. 76, p. 4.

Electricity Company of Sofia and Bulgaria, Judgment, 1939, P.C.I.J., Series A/B, No. 77, p. 64.

Société Commerciale de Belgique, Judgment, 1939, P.C.I.J., Series A/B, No. 78, p. 160.

Electricity Company of Sofia and Bulgaria, Order of 5 December 1939, P.C.I.J., Series A/B, No. 79, p. 194.

1940

Electricity Company of Sofia and Bulgaria, Order of 26 February 1940, P.C.I.J., Series A/B, No. 80, p. 4.

2. International Court of Justice

1948

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. *Albania), Preliminary Objection, Judgment, 1948, I.C.J. Reports 1947-1948*, p. 15.

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. *Albania). Order of 26 March 1948, I.C.J. Reports 1947-1948*, p. 53.

Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948, p. 57.

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. *Albania), Order of 17 December 1948, I.C.J. Reports 1947-1948*, p. 124.

1949

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. *Albania), Merits, Judgment, I.C.J. Reports 1949*, p. 4.

Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 174.

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. *Albania), Order of 19 November 1949, I.C.J. Reports 1949*, p. 237.

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. *Albania), Assessment of Amount of Compensation, Judgment, I.C.J. Reports 1949*, p. 244.

1950

Competence of the General Assembly for the Admission of a State to the United Nations, Advisory Opinion, I.C.J. Reports 1950, p. 4.

Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt), Order of 29 March 1950, I.C.J. Reports 1950*, p. 59.

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 65.

International Status of South West Africa, Advisory Opinion, I.C.J. Reports 1950, p. 128.

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Second Phase, Advisory Opinion, I.C.J. Reports 1950, p. 221.

Asylum (Colombia/Peru), Judgment, I.C.J. Reports 1950, p. 266.

Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia/Peru), Judgment, I.C.J. Reports 1950, p. 395.

1951

Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951, p. 15.

Haya de la Torre (Colombia/Peru), Judgment, I.C.J. Reports 1951, p. 71.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran), Interim Protection, Order of 5 July 1951, I.C.J. Reports 1951*, p. 89.

Rights of Nationals of the United States of America in Morocco (France v. *United States of America), Order of 31 October 1951, I.C.J. Reports 1951*, p. 109.

Fisheries, Judgment, I.C.J. Reports 1951, p. 116.

1952

Ambatielos (Greece v. *United Kingdom), Preliminary Objection, Judgment, I.C.J. Reports 1952*, p. 28.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran), Preliminary Objection, Judgment, I.C.J. Reports 1952*, p. 93.

Rights of Nationals of the United States of America in Morocco (France v. *United States of America), Judgment, I.C.J. Reports 1952*, p. 176.

1953

Ambatielos (Greece v. *United Kingdom), Merits, Judgment, I.C.J. Reports 1953*, p. 10.

Minquiers and Ecrehos (France/United Kingdom), Judgment, I.C.J. Reports 1953, p. 47.

Nottebohm (Liechtenstein v. *Guatemala), Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111.

1954

Monetary Gold Removed from Rome in 1943 (Italy v. *France; United Kingdom and United States of America), Preliminary Question, Judgment, I.C.J. Reports 1954*, p. 19.

Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1954, p. 47.

Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Hungary), Order of 12 July 1954, I.C.J. Reports 1954*, p. 99.

Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *USSR), Order of 12 July 1954, I.C.J. Reports 1954*, p. 103.

Electricité de Beyrouth Company (France v. *Lebanon), Order of 29 July 1954, I.C.J. Reports 1954*, p. 107.

1955

Nottebohm (Liechtenstein v. *Guatemala), Second Phase, Judgment, I.C.J. Reports 1955*, p. 4.

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III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes *(Series C)* of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references. It is also now customary to add the names of parties to all contentious cases, i.e., *I.C.J. Pleadings, Right of Passage over Indian Territory (Portugal* v. *India)*, Vols. I-V.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

Note should be taken of the fact that, with regard to the International Court of Justice, the information given below refers only to the volumes of the *Pleadings, Oral Arguments, Documents* series, which are published only after the conclusion of a case. Written pleadings (if accessible to the public) and oral pleadings in pending cases will, generally, be available on the Court's website.

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1954

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1959

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1972

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[1] In this case, annexes to written pleadings, and documents submitted after the closure of the written proceedings, were not reproduced. Sets of these texts were, however, deposited in a number of public libraries, a list of which is given in the introductory pages of Volume X.

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1987

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1989

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1991

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1996

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Serbia and Montenegro *v.* France

I.C.J. Pleadings, Legality of Use of Force (Serbia and Montenegro v. *Germany)* (not yet published).

Serbia and Montenegro *v.* Germany

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Serbia and Montenegro *v.* Italy

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**I.C.J. Pleadings, Legality of Use of Force (Yugoslavia* v. *Spain)* (not yet published).

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UN General Assembly

CHAPTER VIII

FINANCES OF THE COURT

I. FINANCIAL REGULATIONS

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 *(j)*, of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 115-116, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat – see Chap. VII, pp. 368-369, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Finance Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. *Salaries and Expenses of Judges*

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 43/217 of 21 December 1988, resolution 45/250 of 21 December 1990, resolution 48/252 of 26 May 1994, resolution 50/216 of 23 December 1995, resolution 53/214 of 18 December 1998, resolution 56/285 of 27 June 2002, resolution 59/282 of 13 April 2005, resolution 61/262 of 4 April 2007, and decision 62/547 of 3 April 2008.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 April 2008, the General Assembly (decision 62/547) has fixed the emoluments of Members of the Court at US$158,000 with a corresponding post adjustment multiplier for the Netherlands. The General Assembly also decided to maintain, as a transitional measure, in line with the provisions of Article 32, paragraph 5, of the Statute of the International Court of Justice, the level of annual salary approved in its resolution 59/282 for the current members of the International Court of Justice for the duration of their current term of office or until such a time as this amount is overtaken by the application of the revised annual salary system.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he/she acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees and, in the case they are not usually residing at the seat of the Court, a daily allowance. With effect from 1 April 2008, the daily fee of *ad hoc* judges has been fixed at 1/365th of the annual salary of a Member of the Court.

The emoluments of the sitting judges are set out on the following scale:

	US$
President:	
Annual salary	158,000 + post adjustment
Special allowance	15,000
Vice-President:	
Annual salary	158,000 + post adjustment
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members:	
Annual salary	158,000 + post adjustment
Judges ad hoc:	
Fee calculated as 1/365th of the annual salary of a Member of the Court for each day on which he exercises his functions.	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985, resolution 45/250 of 21 December 1990, resolution 53/214 of 18 December 1998 and resolution 61/262 of 4 April 2007.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1999 (resolution 53/214), if a Member of the Court has served a full term of nine years, the amount of the annual pension shall be US$60,000 in 1999, US$70,000 in 2000 and thereafter one-half of the annual salary. Members of the Court who were in office or elected on or before 1 January 1999, and who have served for more than nine years shall be entitled to a maximum pension of two-thirds of his or her annual salary. The retirement pension is reduced if he or she has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary. By its resolution 53/214 of 18 December 1998, the General Assembly decided that pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments.

In its resolution 61/262, the General Assembly requested the Secretary-General to submit a report to the General Assembly at its sixty-second session on options for designing pension schemes for members of the International Court of Justice, including defined-benefit and defined-contribution schemes, taking into account the possibility of calculating pensions on the basis of the number of years served rather than the term of office.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

> "*The General Assembly,*
>
> *Recalling* its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,
>
> *Having considered* the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,
>
> 1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;
> 2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;
> 3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 2005, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$21,624.

In its resolution 61/239 of 22 December 2006, the General Assembly approved, as from the school year in progress on 1 January 2007, increases in maximum reimbursement levels for six countries, as well as other recommendations in respect of the reimbursement of expenses under the education grant. In its resolution 61/262 of 4 April 2007, the General Assembly decided to extend its decision on the level of education grant (as stipulated in its resolution 61/239) to members of the International Court of Justice.

With effect from 1 January 2005 (resolution 59/282) those Members of the Court who have taken up and maintained a bona fide primary residence at The Hague for less than five continuous years during their service with the Court shall be eligible, upon completion of their appointment and resettlement outside the Netherlands, to receive a lump sum prorated on the basis of the ceiling of eighteen weeks of annual net base salary that is payable to Members of the Court who have served for five continuous years, and those Members of the Court who have similarly taken up and maintained a bona fide primary residence at The Hague for more than five but less than nine continuous years shall be eligible, upon the completion of their appointment and resettlement outside the Netherlands, for a lump sum prorated on the basis of the ceiling of twenty-four weeks of annual net base salary that is payable to Members of the Court who have served for nine continuous years or more.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 7/ + 1.3 as at 1 July 2005. For temporary staff the subsistence allowance is fixed at 264 euros a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 199, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,167,773 euros as from 1 January 2007 and to 1,191,128 as from 1 January 2008.

II. Budget for the Biennium 2008-2009

1. Ordinary Expenses

The Budget of the Court for the biennium 2008-2009, which forms Part III, Section 7, of the Budget of the United Nations, was adopted by the General Assembly on 22 December 2007 (resolution 62/237).

PROGRAMME UN-N-08-181. MEMBERS OF THE COURT	US$	US$
Allowances for various expenses	849,400	
Pensions	3,030,900	
Duty allowance: judges *ad hoc*	455,100	
Travel on official business	42,300	
Emoluments	5,151,200	
		9,528,900
PROGRAMME UN-N-08-182. THE REGISTRY		
Established posts	13,989,000	
Temporary posts for the biennium	2,615,300	
Common staff costs	6,973,500	
Representation allowance	7,200	
Temporary assistance for meetings	1,936,400	
General temporary assistance	220,300	
Consultants	139,200	
Overtime	101,700	
Official travel	39,100	
Hospitality	20,300	
		26,042,000
PROGRAMME UN-N-08-800. PROGRAMME SUPPORT		
External Translation	273,100	
Printing	702,200	
Data processing services	370,600	
Rental/maintenance of premises	2,688,600	
Rental of furniture and equipment	60,300	
Communications	281,200	
Maintenance of furniture and equipment	230,700	
Miscellaneous services	27,700	
Supplies and materials	294,700	
Library books and supplies	193,300	
Furniture and equipment	169,300	
Acquisition of office automation equipment	59,400	
Replacement of office automation equipment	233,800	
Replacement of Court's vehicles	44,600	
		5,629,500
		41,200,400

2. *Unforeseen and Extraordinary Expenses*

On 22 December 2007 the General Assembly, in accordance with previous practice, adopted resolution 62/239, containing the following provisions:

> "*The General Assembly*
>
> 1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations and Rules of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 2008-2009 to meet unforeseen and extraordinary expenses arising either during or subsequent to that

biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

. . . .

(b) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of $200,000;
(ii) The calling of witnesses and the appointment of experts (Statute, Article 50) and the appointment of assessors (Statute, Article 30), not exceeding a total of 50,000 dollars;
(iii) The maintenance in office for completion of the cases of judges who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of $40,000;
(iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (Statute, Article 32, paragraph 7) not exceeding a total of $410,000;
(v) The work of the Court or its Chambers away from The Hague (Statute, Article 22), not exceeding a total of 25,000 dollars."

III. ACCOUNTS FOR THE BIENNIUM 2006-2007

1. Budget Accounts

The Court's accounts are presented in the I.C.J. Yearbook in relation to the biennial period concerned and not on the basis of the single financial year.

The table on page 415 gives a summary of the budget accounts for the biennium 2006-2007.

2. Audit of Accounts

The accounts were audited by the competent authorities from 3-14 December 2007.

BUDGET ACCOUNTS FOR THE BIENNIUM 2006-2007

	Appropriation after modifications and transfers US$		*Expenditure* US$	
PROGRAMME UN-N-08-181. MEMBERS OF THE COURT				
Education Grants/Travel to Court sessions/Home leave	935,200		673,440	
Pensions	2,210,100		2,452,374	
Duty allowance: judges *ad hoc*	415,600		412,489	
Travel on official business	55,600		57,159	
Emoluments	6,842,100		6,894,229	
		10,458,600		10,489,692
PROGRAMME UN-N-08-182. THE REGISTRY				
Established posts	12,074,800		12,110,435	
Temporary posts for the biennium	2,141,700		2,142,612	
Common staff costs	5,236,100		5,029,726	
Representation allowance	7,200		7,149	
Temporary assistance for meetings	1,579,800		1,501,062	
General temporary assistance	212,200		218,848	
Consultants	70,800		42,847	
Overtime	124,800		132,745	
Official travel	26,600		30,082	
Hospitality	21,200		22,081	
		21,495,200		21,237,588
PROGRAMME UN-N-08-800. PROGRAMME SUPPORT				
External Translation	274,800		216,320	
Printing	540,900		492,716	
Data processing services	291,500		107,120	
Rental/maintenance of premises	2,968,700		2,968,700	
Rental of furniture and equipment	45,700		43,657	
Communications	268,000		239,680	
Maintenance of furniture and equipment	245,800		243,940	
Miscellaneous services	34,400		26,122	
Supplies and materials	276,600		257,758	
Library books and supplies	174,100		180,100	
Furniture and equipment	89,000		97,419	
Acquisition of office automation equipment	100,500		107,794	
Replacement of office automation equipment	286,000		188,772	
Replacement of Court's vehicles	59,700		54,707	
		5,655,700		5,224,806
TOTAL		37,609,500		36,952,085

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